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# MAJOR FOREIGN POWERS

THE GOVERNMENTS OF GREAT BRITAIN, FRANCE,  
THE SOVIET UNION, AND GERMANY

REVISED EDITION

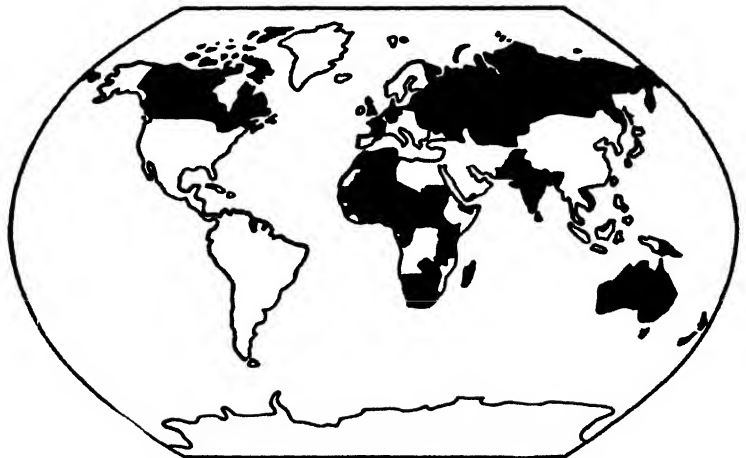
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by Bunji Tagawa

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# FOREWORD

SCRIPTURE SUPPLIES MANY ILLUSTRATIONS of matters which are of interest to modern students of political science. Perhaps the first statistical curve was plotted by Joseph when he predicted the cycle of fat and lean years. Students of public administration can find the concept of hierarchy stated in Jethro's advice to Moses to appoint rulers of thousands, hundreds, fifties and tens; and good personnel counsel in the suggestion that these rulers should be "able men, such as fear God, men of truth, hating covetousness." And it may not be too farfetched to think that comparative government dates at least from the time when Moses sent scouts to spy out the land of Canaan, instructing them to "see the land, what it is; and the people that dwelleth therein, whether they be strong or weak, few or many." The spies were well impressed, for they reported that they saw giants, "and we were in our own sight as grasshoppers." The comparative approach to the Promised Land gave the Israelites perspective by which to judge themselves.

Moses had firm notions about the use to which he intended to put the information brought to him. Students of modern politics may be less certain. Perhaps the matter should be faced head-on. Why should anyone want to compare the governments of Britain, France, the Soviet Union, and Germany? Two easy answers occur, one shallow and cynical; the other shallow and cheerful. The first is that college and university courses in comparative government require a text or other reading and this is it. This simple conclusion stands upon the proposition that writers write about comparative government because teachers teach it (and vice versa), and writer and teacher live in a profitable symbiosis like the mollusk and the sea anemone. The weakness in this view lies in the failure to identify a third force, to wit, the reader, without whom the writer presumably would not write and the teacher presumably would not teach. Good books on comparative government are written because they tell readers something that readers need to know.

This brings us to the second of the two easy answers. It is sometimes said that the comparison of foreign governments is important because we thereby achieve understanding of other systems and other peoples; and with this increased understanding comes tolerance of the strange and the exotic, with a consequent improvement of relations among people, which are assumed to be based upon mutual misunderstanding when they are in conflict. But a moment's thought should demonstrate that a knowledge of the governmental systems of other countries will not necessarily produce this desirable result, which seems so remote in the middle of the twentieth century. The French and the Germans have lived side by side since the time of Charlemagne yet, until after World War II at least, the record of their relations with each other was not distinguished by its amity. The Balkan countries have been notorious for their antagonisms, although it may be presumed that their leaders fully understood their adversaries. Evidently there must be more than mere knowledge of the systems of other countries to develop that mutual tolerance and understanding without which the peace of the world will forever be a chimera.

It is entirely possible that those who trust in better understanding as the key to peace have the right weapon but the wrong target. It is not that we need to understand others so much as we need to understand ourselves; and in finding personal knowledge, we learn about man. A study of foreign systems can be important to us, then, not merely because we learn a lot or a little about others, but because we can learn a lot about ourselves. And if we assume that people are pretty much the same the world around, in learning about ourselves, we have learned about our brothers.

But a course or a text in comparative government is obviously not a self-administered psychoanalysis, if such a thing is possible. It talks not about motivations, anxieties, drives, frustrations, insecurities, and animadversions of a personal nature, but about kings and potentates, assemblies and chambers, ministries and commissariats—about a host of official personages, their authorities, their structures and symbols, their private ways and peculiar properties. What of these? Can they be compared? And what relevance do they have in any effort to understand ourselves?

As to the first question, whether they can be compared, it is doubtful whether the differences among Englishmen, Germans, Frenchmen, and Russians are not so profound as to make each of them and their political systems, unique, unlinked, disconnected, and detached. For things to be comparable, there must be something common that makes them a classification of things to be studied together. What are these common factors? There are at least five. First, this book describes four different kinds of *government*. Each of the political systems presented exhibits the unfailing characteristic of organized societies deriving their culture from western sources—a mature, and even complex, governmental system. Second, these governmental systems are not the personal fiefs of the men who manage them, but are objective structures of law and administration which do not depend for their existence upon the personality of the wielders of power and authority. Third, the public governments described and explained in this book are the principal aggregations of political power within their territorial limits. In an older terminology, they are all “states,” in varying degrees of fulfillment. Fourth, each of these governmental systems contains an arrangement of structures, institutions, and procedures for performing the principal functions of governance, for formulating and administering public policy, and for punishing infractions of the public law. These are the expected devices that we associate with the state apparatus wherever it is found. Fifth, each of these governments holds itself to be responsible for bringing to the people subject to its jurisdiction that conception of the good life prevailing within its borders. There are indeed common factors, and much to compare.

We come then to the second part of the question. What relevance do these governmental systems have to efforts to understand ourselves? The relevance will be clear if we understand what it is that these structures of government purport to do. They purport and profess to organize the power of the people, and to apply it to ends and objects which the people themselves desire, and which they cannot achieve individually. Governments are engines of power, operating more or less within a context of legal and ethical limitations, moderated in their methods by the expectation of their managers and operators with respect to the likely reactions at home and abroad of alternative courses of action. It is basically the power of the people—their wit and energy and muscle and spirit—that is directed, and influenced. Tyrants do indeed oppress, and the control of the instruments of physical force (police and military) in their hands goes far to check the unequipped resistance of the people. Even more, the control in the hands of tyrants of the instruments

of communication—radio, publishing, newspapers—is capable of manufacturing the consent which even tyrants need. But even in these times of massive technology, government ultimately rests upon the decision of people as to what they want or think they want this engine of power to do for them. And they know what they want government to do for them only to the extent that they understand themselves. And they can be helped to understand themselves by learning about other political systems besides their own.

We move then from the conclusion that comparative government can aid in making up our minds as to what we want government (and therefore ourselves) to do, to a connected question, "What is the nature of the subject matter of which comparative government is a part?" The question is connected with comparative government because comparative government is not complete and self-contained, a subject *sui generis* obeying the logic and law of its own being, but a method. This is important to keep in mind. It is a method of collecting, compiling, arranging, and analyzing certain kinds of subject matter materials. The subject matter materials are those of political science, and comparative government is therefore one of the methods of political science in enlarging knowledge about the subject matter of political science. And the subject matter of political science is power in human relations.

The comparative method when utilized in the analysis of this subject matter is capable of developing a knowledge of its nature different from that of other forms of analysis. If the methods of historical analysis be applied to, say, the government of the United States or the government of Britain, one can learn something about the sequence of connected causes and influences which, working on each other over a period of time, produced the present set of political institutions. In historical analysis, sequence, development, and causation (where it can be discerned) are important elements of inquiry. But where the comparative method is employed, we are able to identify those characteristics of our own system that are universal, and distinguish them from those that are local and accidental. We learn to recognize the elements of political community which endure and those which do not.

Help in understanding the limitations as well as the uses of the comparative method, especially in the social sciences, may be drawn from the experience of the physical sciences. The science of biology, for example, in one of its branches, morphology, concerns itself with the structure and forms of plants and animals. What we might call political morphology would also deal with the structures and forms of political systems. If the biologist were to compare sharks and goldfish, it would be relevant to point out that they both have gills, eyes, fins, tails, and other comparable parts. The same approach in political morphology would show the resemblances and differences among the political structures—the executive, the legislature, the electoral system, the judicature, and so on. And a comparison of structures is important. But something would be omitted in the biologist's analysis if, by a comparison of structures merely, he came to the conclusion that sharks and goldfish are essentially alike, both being fish, and ignored the differences that Nature has developed in each to fulfill different purposes.

It would be an even graver mistake in politics to ignore the differences among governmental systems which a consideration of purpose introduces. For purpose may be the critical difference, man being a moral creature, capable of making choices. The surgeon uses a knife and so does the desperado, but difference of purpose rewards one and condemns the other. It is so with the governments presented in the text for study. It would be possible to say of the Soviet system that it resembles the British and French systems in possessing a fundamental law, an apparatus for

## FOREWORD

representing the Soviet citizenry, and for enacting the formal statutes of the state, a bureaucracy, and a judiciary. But the nature of the Soviet Union is rooted in its purpose, and its purpose is fundamentally different from that of the other governments. It is out of this difference of ends, and of the means that they involve, that the panics, wars, schisms, and revolutions of the twentieth century have come, and from which they draw their fanatic inspiration.

Purpose is not the only differential between similar political structures, however. Structures have to be gauged and evaluated in the stream of tendency in which they occur. In other words, the element of time and direction is a dimension which influences purpose, and by which it is influenced. For example, both Britain and France before World War II had colonies, mandates, spheres of influence, protectorates, and other overseas possessions. The Soviet Union was a consolidated and contiguous mass. It had no colonies in the conventional sense, and partisans of the Soviet Union made much of the presumed lower morality of the "imperialistic" nations. But the historical movement of these opposite systems, western liberalism and the Soviet version of Marxism, was in opposite directions. After World War II, the British gave independence to India, Pakistan, Burma, and Ceylon, and the French began to develop new (and less restrictive) forms of colonial association with metropolitan France, while the Soviet Union was extending its hegemony over the Balkan and Baltic countries, and bringing Asia within the orbit of Soviet power. Thus it is essential to an understanding of comparative government to know not only the particulars and peculiarities of structure and institution, but the curve of change along which institutions move, as directed by the overriding purposes of the state.

It was said above that the subject matter of political science was power in human relations. It was also said that comparative government helps to identify the universals of political science. The unity of political science as a study of human behavior is evident in the persistence of key concepts, which comparative government helps to elucidate. Among these key concepts are state, sovereignty, representation, authority, and federalism. There are many others but these will serve to illustrate the point, and we might consider two of them briefly.

The Soviet Union is most sharply distinguished from the other political systems described in this book in its concept of the state. For western nations, the state is the organization of the society into a civil polity, possessing the elements of government, people, and territory, invested with the authority to command obedience, the principle of political obligation resting in the moral purpose served by the state. Political disputation from Thucydides to Truman has dealt with such questions as whether the state embraces the whole loyalty of man or some lesser part, the nature of the right to command and the obligation to obey, the moral ends for which states exist, and the signs by which the state may be said to have forfeited its authority.

The English and French political systems are alike in assuming the state to have moral purpose, that purpose being the fulfillment of the personality of the individual, the principal political form being democratic or, at the least, widely representative, the state by no means absorbing all of the loyalties of its citizens, but existing within a system of ethical limitations, serious violation of which would release the citizenry from their obligation of obedience, and thrust the society into a situation where it might be necessary to re-form the polity. In varying degrees, both the British and the French have maintained the political proposition that there are rights that may be asserted against the state, John Locke and Jean Jacques Rousseau representing two versions of this principle. Traditionalism in both countries, however,

speaking the language of de Maistre and Burke, has tended to slow down and stabilize the velocity of social and political change, more so in Britain than in France, but effectively in both systems.

The Soviet Union, however, rejects the conception of the state in its entirety. Drawing from Marx and Engels, who with bourgeois logic forecast a proletarian revolution, and from Lenin, who instigated a revolution without waiting for the logic, the theorists of the Soviet Union have said that the state is a bourgeois fiction calculated to deceive the workers about the nature of their enslavement to capitalistic masters. The state is the executive committee of the ruling class which, in an industrial system, are the owners of the instruments of production, who grind the faces of the poor, and exploit their misery for profit. The proletariat will one day throw off their chains in accord with the relentless and invincible logic of dialectical materialism, liquidate their bourgeois oppressors, establish the dictatorship of the proletariat, and bring to pass the condign benefits first of socialism and then of communism. The "state" will disappear because, by *definition*, the state is the executive committee of the ruling class. No ruling class, no executive committee. No executive committee, no state.

Connected with the concept of the state is the concept of sovereignty which has played a conspicuous role in western liberal political thought since the time of Bodin in the sixteenth century. Sovereignty is sometimes thought of as the supreme power in the society, in which it is regarded as the source of the law, which in turn is the manifestation of the power of the state through prescribed rules. In modern democratic theory sovereignty, in the sense of ultimate power, is said to rest with the people, hence the expression "popular sovereignty," as distinguished from other views which repose the "ultimate" power in monarchs or lesser groups than the whole of the people. In a more technical sense, sovereignty is regarded as the spring and origin of the positive law; and with those who have written thus, sovereignty is said to rest in statute-making bodies. The object of the entire search in western political theory for final and legitimate authority in secular affairs comes out of the desire to erect an objective law, rational in structure, which will govern the relations of individuals to each other and their relations to the state in orderly, visible, systematic, and predictable fashion. One of the developments of this search is the concept of the rule of law, which in turn is connected with the conception of a constitution which sets out the powers of government and asserts the rights of the people against their rulers. These views derive remotely from the Stoics, by way of the Christian notion of natural law, with which man-made institutions must be in train and harmony.

None of these conceptions fits into the Soviet rationale. There is no room for the concept of sovereignty (except in external relations), since it has a close connection with its allied concept of the state. If the state is the executive committee of the ruling class, sovereignty in the sense of the ultimate power which states do exercise in fact or in trust, and the legal rules which sovereignty makes legitimate and binding, are also part of the design of the ruling class to exploit labor. And in the Soviet state therefore one may not expect to find speculation about sovereignty because the underlying assumptions about the need of man in society for an objective impartial code of rules based upon reason do not exist. A recent book on Soviet legal theory nowhere lists "sovereignty" in its index.

For different reasons from those prevailing in the Soviet Union, the concepts of state and sovereignty do not seem to be applicable to Germany at this time. There is serious question whether Western Germany qualifies as a state at all in the historic sense, for although it has government, people, and territory, "sovereignty"—

the ultimate power to decide and to make law—rests not with the German people nor with the German officials but with the Allied powers. Even less does East Germany qualify as a state, since it is captive to the Soviet Union, and must be regarded as an incorporated part of the Soviet system. But Germany nevertheless is a “power,” and its influence upon the future peace of the world is considerable. It is a “power” in the political sense, and may again become a power in the military sense, within the North Atlantic Treaty Organization.

Although the Soviet Union is presumably based upon the belief that the “state” is a contrivance of the bourgeoisie, it would be a play upon words to assert that the Soviet Union lacks a state apparatus, by whatever name it be called. Its state system reflects the underlying tenets of Soviet social and economic theory. The supreme political power is concentrated in a ruling class, the Communist Party, and the management and manipulation of that class is in the hands of its inner bureaucracy, as the chapters of this book amply show. If we were to use western concepts in describing the Soviet Union, we should have to say that sovereignty does not reside in the people, but in a small bureaucratic minority, that other minorities have no rights that may be asserted successfully and legally against the state, and that law is the command of the sovereign minority. There is no accountability of the rulers to the ruled. This hard core of absolute power is concealed behind a façade that imitates western liberal systems in exhibiting a constitution, a procedure for voting in which there are no choices except those imposed, for agents who represent the desires of the minority rather than those of the majority that presumably elected them, and a dumb show of carefully organized “spontaneous” expressions of popular sentiment for policies manipulated by the masters of the Kremlin.

The text which follows, then, describes the lineaments of two conflicting systems, opposite from each other in philosophy, purpose, tendency, and act. The western system is a free and open society, based upon the assumption that men have reason, that the state exists to fulfill the moral ends of the individual person, and that it is itself moral so long as it contributes to this end, that the power to constitute the political community reposes in the people, who express their desires in elections in which they cast uncoerced ballots for representatives who may be held accountable for their trust. The Soviet system is a closed society, based upon the assumption that the liberal state is an exploitive contrivance of an oppressive class which must be liquidated, after which there will be a temporary dictatorship of the proletariat and the eventual disappearance of any formal political apparatus. The struggle between these two systems is, in its most simple form, an attempt on the part of those who embrace the Communist ideology to subvert western liberal society and to transform it into the image of the Soviet Union, based upon a Muscovite ultramontanism, with a Slavic pontiff, infallible in word and purpose, the guardian of the Marxian faith, and the keeper of the ideological keys. But the western tradition, although weakened by war and civil strife, is still strong where it had time to take firm root, and the process of world revolution has won no conspicuous victories in the West. The Balkan satellites, for example, never had a strong liberal tradition, and it may be doubted whether even they would have become sovietized without the military pressure represented by the nearby Red Army.

But the struggle to subvert the West is only part of the conflict, which necessarily needs to be viewed as a world phenomenon. Of equal importance, at least, is the struggle in Asia and Africa. An anthropologist has put it that the conflict there is a contest between two rival systems, each of which offers itself as the agency for bringing the Industrial Revolution to societies still predominantly agricultural.

The peoples of Asia swept along in a fury of restless action unknown in the long history of the continent, aroused to passionate energies by the force of a long repressed nationalistic spirit, clamorous and self-assertive as at no other time in the past, have undertaken the monumental task of raising the material standards of living of half the world's population. Only industrialization will supply the needs of these peoples who, for centuries, have lived sub-marginal lives; where indeed beasts have often fared better than human beings. There is industrialization on the western model and industrialization on the Soviet model, and the course that Asia chooses to follow will affect history profoundly.

The science of politics is co-extensive with the world of people and there is a sense in which the only true politics is world politics. To an understanding of world politics, comparative government contributes much. There was a time when the political systems of the known world could be compared and contrasted, as in Aristotle's day, but the manageable compass of useful inquiry is considerably more limited today. Thus it is that this book omits consideration of the Icelandic Parliament, called the Althing, which is older than any other existing legislative body. There is no space to consider the very modern-minded merit system by which the Osmanli Turks originally recruited an elite military corps called the "janissaries." Or the peculiar Polish Diet which permitted the *liberum veto*, somewhat like the Security Council of the United Nations, a device that effectively frustrated action. The complexity of comparative government is both a dimension of space and of history; and it is therefore necessary to be selective.

But it is important not to lose sight of what is being done in the selection of four contemporary political systems for study. The important thing about comparative government is the comparative method of appraising, analyzing, and evaluating different political systems. The authors of this book have done much more than to put structures and procedures from different systems side by side. They have related contemporary political institutions in each of the countries presented to the social, economic, and historical influences which affect and shape and in turn are affected and shaped by the political institutions which are at the front of the inquiry. Trees have roots, and the student of arboriculture must know the ecology of woods, the chemistry of the soil, the topography and terrain, rainfall, climate, and the cycle of the seasons. He is no student of the subject who knows only how to chop. Readers of this book will understand the complexity of the forest as well as the simplicity of the log.

EARL LATHAM

*Amherst, Massachusetts*  
*February 8, 1952*





## PREFACE TO THE REVISED EDITION

TO WRITE A BOOK on comparative government at a time like the present is, in many respects, a foolhardy enterprise—so began the preface to the first edition, and it remains almost as true today. In countries like postwar France and postwar Germany, many political institutions are still too new and too unstable to permit the long observation and mature analysis required for a comprehensive discussion; and if the Soviet Union does not suffer from the same apparent instability, the facilities for careful observation and study of its institutions are much more seriously restricted. Even Great Britain, long famed for its devotion to slow, imperceptible, and unconscious political development, has turned since World War II to experimentation of a deliberate and radical nature. The very extensiveness of the changes in this second edition bears witness to the rapidity with which events have developed, though it is also a reflection of the clearer perspective which can now be gained on these developments.

Yet the conditions which make the writing of this book difficult are the very ones which make it most important for Americans to understand the politics of major foreign powers. The pleasant times of peace and stability, when it is easiest to prepare such studies, are also the times when foreign events have the least effect on American life. It is in times of international crisis and domestic tension that it becomes essential for Americans to have some knowledge of foreign conditions and developments which may determine their own fate. And it would be most unfortunate if, at such times, we refrained from making the best of what information is available, however great the risk that it may become outdated.

### MAJOR FOREIGN POWERS

The four countries dealt with in this book are of unquestionable importance to the United States. Three of them—Great Britain, France, and the Soviet Union—are commonly regarded as being, together with the United States, the world's principal powers. In recognition of their importance, each has a permanent seat on the Security Council of the United Nations. The fourth country, Germany—which replaces China in the revised edition of this book—has been a great power, and is already again playing a distinctive role in international affairs. Moreover, these four countries also afford a wealth of political material of profound significance for the study of government.

To concentrate upon these countries is not to suggest that others are lacking in political interest. Sweden and Switzerland, for example, have engaged in political and economic experiments of great interest for the Western democracies; so have such overseas members of the British Commonwealth as Australia and New Zealand. India's vast and courageous experiment with political democracy and Japan's attempt to build free government are of the utmost importance. Yet none of these countries, nor the many others whose study would be rewarding, is as important to Americans as are the four countries here considered, both as factors in international politics and as political laboratories; and it has seemed to the authors far better to engage in a

thorough study of their institutions and politics than to prepare a shorter and more superficial survey of a greater variety of countries.

### *Approach to the Subject*

In the past too few books on comparative government have been truly comparative. In most cases, each country has been treated as a unit in itself, and there has been little attempt to use a knowledge of the practices and institutions of one country to illuminate those of another, or to draw the many enlightening and suggestive comparisons which lend fresh insight to the reader. The authors, therefore, have attempted from the very beginning, in their discussion of British politics, to draw comparisons with those American organs and procedures with which the reader might be expected to be familiar; and as each new country is taken up, comparisons have been made with the countries already described, and cross-references inserted to corresponding discussions in other parts of the book.

Throughout, the authors have tried to depict governments, not as casual or arbitrary collections of institutions existing in a vacuum apart from the peoples which have produced them, but as a living complex of activities and arrangements which change and develop in response to the character, needs, desires, and purposes of human beings. Thus, in the sections devoted to each country (with slight changes for Germany because of the variety of its political experience), the first chapter contains a discussion of the nature of its people: their national, economic, religious, and geographic divisions, together with the organs of public opinion through which these diverse interests are expressed or controlled. The second chapter then deals with those historical influences and political ideas which have been important in molding the institutions of government. The third (for Germany the fourth) turns to political parties as the agencies through which the people, or a dominant portion thereof, most directly influence or control the government. The fourth (for Germany the fifth) chapter is devoted to representative bodies which, in general, have the special function of reflecting popular interests. The fifth (for Germany the sixth) is concerned with the executive and the nature of political leadership. The sixth is concerned with national administration, and the seventh with local. The eighth chapter turns to the administration of justice. The ninth surveys the range of experiments and activities to promote the public welfare. And the tenth considers the position of the country in the world today.

The original authors, Mr. Ranney and Miss Carter, planned the book as a unit and worked over each chapter of the first edition together; in each major section of that edition, the first five chapters were primarily the work of Mr. Ranney and the last five of Miss Carter. In the second edition, due to Mr. Ranney's untimely death, Miss Carter has undertaken a comprehensive revision of the sections on Great Britain, France, and the Soviet Union; Mr. Herz has prepared the new section on Germany. As before, the authors have worked closely together to maintain the unity of the work.

In writing the book, the authors have had in mind the reader who is seeking an introduction to the politics of the major powers rather than the scholar who has already specialized in the field. Wherever possible, therefore, they have dispensed with the top-heavy and somewhat grotesque apparatus of scholarship which requires a footnote for every statement and which repeatedly diverts the reader from the principal train of thought. Where it is important for the reader to know the source

of certain statements, they have tried to introduce that information into the text itself.

As an aid to the reader who wishes to pursue the subject further, there is appended a bibliography of relevant books and articles in English, together with introductory comments explaining which of these are likely to be most helpful.

### ***The Authors' Personal Position***

Each of the major foreign powers today is the focus of great controversy, and an author inevitably finds himself involved in questions which go beyond a mere description of political institutions and processes. Once one has ascertained as accurately as possible how an institution works, how power is exercised, how rulers are chosen, how elections are arranged, or which interests rule, the further question arises: does the institution work well or badly, is the system good or bad?

In many cases, the answer to this question will depend upon one's personal set of values or standard of judgment. The person who thinks of unemployment as the greatest evil may well come to a different conclusion from the person who hates political tyranny before all else; the person who worships efficiency will look at the same institution in a very different light from the person who thinks it most important that men should base all of their institutions upon voluntary consent.

It has therefore seemed well to the authors to do two things. In the first place, they have tried to explain, in their discussion of the politics of each country, the nature of the ideas, the aims, and the traditions which have had a dominating political influence, so that it will be possible to judge the institutions of each country in the light of its own standards and beliefs. But they have also thought it important, on issues which are controversial, to make their own point of view perfectly clear—both because it would be more stimulating for the reader to see the issues discussed frankly, even when he might himself disagree, and because it would be deceptive in any case to evade value judgments at a time when even to avoid an issue is to take a position. The authors, therefore, have not tried to conceal the fact that they share the political beliefs of most liberal Americans. To them a society is bad which lacks the traditional democratic freedoms of thought, speech, press, and association. But a society is not good which is marked by poverty, ignorance, unemployment, or social and racial discrimination. Like most Americans they would like to make the best of both worlds, to see the good political and spiritual life combined with the good material life. And it has seemed to them important to discover to what extent any one of these major foreign powers has succeeded in combining these ideals.

### ***Acknowledgments***

At the conclusion of so extended a survey, the authors are bound to think with special gratitude of the very many people who have given them assistance in reading and criticizing parts of the manuscript, in providing information, and in helping with the innumerable technical jobs involved in the preparation of a book. None of them, of course, bears any responsibility in the proper sense, but they are largely responsible for whatever the book has of merit.

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# INTRODUCTION

## MAJOR FOREIGN POWERS

The four "major foreign powers" with which this book is concerned—Great Britain, France, the Soviet Union, and Germany—have a two-fold claim on American attention. They are highly important in contemporary world politics, and they offer a variety of political experience invaluable for the study of government.

Few observers would claim that all four countries are Great Powers. It is popular today to speak of the "Big Two," the United States and the Soviet Union, as the dominant powers in the world, or by speaking of the "Big Three," to recognize that Great Britain, with its Empire and the Commonwealth, still represents a powerful force in international affairs. France, with its less highly developed industry, and its internal dissension, and Germany with its *de facto* partition and uncertain future no longer exert the power which they once held.

Yet events in all four of these major foreign powers have, today, a tremendous impact on American life, and the next few years are not likely to see a reduction in this influence. Relations with the Soviet Union are now the chief source of international tension and anxiety. The strength of Western Europe depends largely on political developments in France and Germany. The weakening of Great Britain already has brought a shift in the international balance of power, and the British experiment with collectivist programs is of the most serious importance for the future of free government. Whether or not each of these countries is a great power in the sense of military potential and economic resources, each is a great power in the sense that its fate will affect the political future of the world.

### *The Comparative Approach to Politics*

Few experiences can be more valuable, in studying such countries, than to compare them

with one another in an effort to discern the major trends in modern politics, to observe the extent to which the same problems and issues arise in different countries and the varying ways in which they are met, to note significant departures from the common pattern, and to draw some judgment of the relative merits of different systems of government. Often the knowledge of one country is a guide and illumination in the understanding of another; and often the knowledge of individual institutions and problems furnishes the key to issues of far greater and more general scope.

The four countries included in this book are, as suggested, admirably suited to this purpose. Taken together, they represent a difference in tradition, way of life, and range of political experience, which puts many of the most common generalizations about government to their severest test. The American who studies the Soviet Union inevitably becomes acquainted with an entirely new set of standards for judging political excellence. The person who studies the radically different regimes which Germany has experienced can never again feel so complacent about the universal applicability even to Western countries of the political institutions and principles to which he is accustomed. The student of British and French politics learns of varieties of democratic life which offer sharp contrast to the institutions and procedures which Americans accept as normal and natural. It is impossible for an alert and inquiring reader to consider the experience of these countries without having his own political thinking deepened, his political vision rendered more penetrating.

### *The Impact of Crisis Government*

The fact that each of the four governments is undergoing a crisis of considerable gravity makes their study more significant, more interesting—and more difficult. All four knew bitter suffering as a result of World War II—in loss

of life, disruption of the economy, and physical destruction. Today, partly as a heritage of the war, partly as an outcome of the current tension between the Western powers and the Soviet Union, all four must contend with economic, social, and political problems of overwhelming gravity. In studying these countries the observer is not looking at governments which are stable and unchanging or which follow a gradual, "normal," predictable line of development. The political situation within each country is changing even as one attempts to analyze it, and the future holds many possibilities for diverse development.

Under such circumstances the study of comparative government becomes very different from what it once was. Where the student of fifty or even thirty years ago could approach the institutions of a foreign country with some confidence that they would not change greatly in the next decade or two, the immediate future of these four lands is clouded by the unpredictable and the imponderable. Often, as with Germany and even France, there is no assurance that those institutions which can be observed today will be in existence five years or even one year from now.

Today, then, if the study of comparative government is to have more than transitory significance, it must look beyond the bare outlines of political institutions and pay greater attention to the raw material of politics: the human beings who make up the political community, and the influences and forces which mold their political life; for the people change more slowly than their governments. Whatever happens to their political institutions, their way of life, their religious and national divisions, their economic problems and class stratifications, their historical experiences and inherited political ideas are likely to have an enduring influence. Russia under the Communists still has certain things in common with Russia under the Tsars (see pp. 450-53). Issues and experiences of the eighteenth and nineteenth centuries still have a vital effect upon French political divisions and conduct today (pp. 252-55). Traditional German attitudes and aims are of profound importance for contemporary German politics (pp. 596-604). To understand such influences is often to possess a key to future developments, and a considerable

proportion of this book will, therefore, be devoted to this subject.

## CERTAIN BASIC QUESTIONS

While the primary purpose of this book is to provide an understanding of the institutions and politics of the major foreign powers, there are certain general problems of modern government of which the American reader ought to be aware, whether he is looking at the governments of Western democracies like Great Britain, France and the Bonn Republic or at the different forms of totalitarian rule characteristic of the Soviet Union and Nazi Germany. Today it is frequently charged, on both the extreme Left and the extreme Right, that the type of democracy to which Americans are accustomed has outlived its usefulness. Where Lord Bryce, at the end of World War I, could write of "the universal acceptance of democracy as the normal and natural form of government" and observe that "the old question: What is the best form of government? is almost obsolete,"<sup>1</sup> this question, at the close of World War II, is with us in a more imperative form than ever.

To attempt to answer the question on the basis of American experience alone is to take far too narrow a view of the subject. In a very real sense, democracy means diversity; and in Great Britain and France it is possible to see how democratic governments basically different from our own have met similar problems. Moreover, it is decidedly unrealistic to ponder the adequacy of democracy without examining with equal care the merits and demerits of alternative forms of government. In looking at the political systems which prevail in these four countries, it is also desirable to arrive at some judgment on the charges commonly made against democracy. In general these are of two types: that the machinery of democratic government is inefficient and inadequate to modern needs, and, even more fundamentally, that the liberal democratic concept of political life is untenable in the modern world. Let us look at these contentions more closely.

<sup>1</sup> James Bryce, *Modern Democracies*, Vol. 1, p. 4.

## ***The Machinery of Government***

To the person who is dazzled by the more dramatic conflicts in ultimate aim and aspiration between the world's leading political systems, the issue of political mechanics may appear drab and unimportant. Yet it is upon such "wretched technicalities" (to borrow the phrase of Ortega y Gasset) that the noblest political principles and aspirations depend. If the machinery is bad, the end, however magnificent, is bound to suffer. The first charge, therefore, is the accusation that the machinery of democratic government is not suited to the burdens placed upon it. The attack, as it affects certain institutions, can be summarized briefly.

### **INSTRUMENTS OF POLITICAL INFORMATION AND EXPRESSION**

One of the gravest charges is that the facilities for informing citizens and expressing their opinions are inadequate and perverted; for unless one is prepared to maintain that there is some mystical property inherent in the judgment of the ordinary citizen which makes him always right, popular government can be little better than his sources of information. According to the accusation, most owners of newspapers, even at their best, are likely to be more interested in profits than in public service and to concentrate on those sensational features which will attract readers rather than on the task of political education. At worst it is charged that certain owners of newspapers deliberately distort the news and prejudice their comment in order to promote their own partisan political interests (pp. 14, 248, 593). In particular, since the press and the radio have become a big business, it is alleged that those who control them use their influence in behalf of the wealthier classes and leave the mass of the people without adequate channels of expression.

### **CHANNELS OF POLITICAL ACTION**

Moreover, even the best information and judgment is useless unless the citizen finds it easy to engage in political action; yet it is maintained that the channels of action are seriously limited. To cast a ballot once in two or four or more years seems to the critics a thin and not very meaningful form of political participation. Pre-

sumably, the voter is free to join a political party; but the parties themselves, according to the charge, are far from democratic in their internal organization. A small elite of "bosses" or "bureaucrats" allegedly chooses the candidates and dictates policy (pp. 52, 54, 300-01, 666). Pressure groups, far from remedying the defects of undemocratic party organization, simply intensify the political distortion by enabling special interests, for purely selfish reasons, to influence the policy of the government.

### **INSTRUMENTS OF REPRESENTATION**

In addition, it is sometimes said that the parliaments and congresses in a democracy are a far from accurate reproduction of the sentiments of the voters, both in the strength of party representation and in the reflection of the economic interests and social divisions of the country as a whole (pp. 71-77, 308). In those countries which have a two-party system, the strength of the larger party is likely to be greatly exaggerated; in those which have a multi-party system, parliamentary manipulation may result in a government very different from the one the citizens thought they were voting for. Moreover, the development of party discipline may oblige members of the legislature to vote against their own convictions and the desires of the people who elected them (pp. 71, 74-76), and in accordance with the orders of a small and unrepresentative group of party bosses. Often, indeed, the popular impression of representative assemblies is one of a group of spokesmen of special interests battling and wrangling without thought of the common welfare of the country. And it is popular to talk of the "decline of parliaments" and to suggest that the chosen representatives of the people are not capable of directing the work of government but must delegate their authority to the executive and civil servants.

### **POLICYMAKING AND ADMINISTRATION**

Finally it is charged that the democratic executive, who increasingly bears the burden of making and administering policy, is inefficient and irresponsible. In a time when government requires prompt, vigorous, imaginative, and decisive action, the democratic executive is pictured



as slow and bumbling, handicapped and weakened by systems of checks and balances, subjected to the pressures of special interests, corrupted by the requirements of partisan politics, and too inexperienced to know the solution to the increasingly complex problems of modern political life. Thus he is forced to delegate authority to a dominant and expert bureaucracy which is not chosen by the voter and which cannot be controlled by the voter. As a result, what with the immense complexities of modern politics, and the infinitely varied devices for confusing and misleading the public, the voter cannot tell whom to blame for policies which he dislikes; and ignorance makes it impossible to enforce responsibility. In a country like France the charge of executive inadequacy may be pushed to the point of insisting that democracy cannot even provide a stable executive possessed of enough strength to enforce order.

### *Democracy in the Modern World*

The second set of charges runs deeper than any accusation that democratic institutions are imperfect, unrepresentative, inefficient, or irresponsible. In particular, since the early 1930's, it has been popular to ask whether even the most perfect machinery of democratic government is adequate to the demands of the modern world. Fundamentally, the question is whether, at a time when the burdens of government are multitudinous and complex beyond comprehension, human beings themselves have the mental and moral qualities necessary for self-government. "Look at the faces of any crowd pouring out of a morning train," wrote Ramsay Muir, "some stupid, some harassed, some predatory, some vacuous, some trivial—and reflect that with them rests the determination of our destiny: however ardent a democrat you may be, you will have some moments of misgiving. . . ." <sup>2</sup> Yet today every advanced country, from Switzerland to Australia and from India to Brazil, has assumed an ever-increasing burden of responsibility for social and economic welfare—a burden, it is claimed, so great as to overstrain democratic government. The activities of gov-

ernment, according to the argument, are too numerous and technical for the mass of the citizens to understand. Inevitably, therefore, authority must be given to an elite of experts. Thus it is often said that ours is an age of government by managers and technicians who alone can muster the intelligence and knowledge required for the conduct of public affairs.

Yet the issue, as Muir's comment suggests, is not simply a question of whether democracy can muster the necessary intelligence. In addition, democracy, to be successful, must stand on the assumption that men can think calmly, adjust their differences peaceably, consider the other person's interest and ideas, make concessions and compromises, tolerate opposition and disagreement, and refrain from violence and the temptation to impose one's will by force. Such qualities may flourish in times of peace and prosperity; but in time of international crisis and economic strain, they are less common. Men accustomed to violence in one sphere may carry their acquired habits into another. Men suffering from anxiety, whether it is inspired by the dangers of enemy action or by the desperation of hunger and unemployment, find it harder to be calm and reasonable and patient, to put public duty before private interest, and to refrain from violence when it appears that violence will be effective.

In particular, it has been suggested that class hostility has developed so far that neither the conservative nor the radical elements in society can afford to see their opponents retain or acquire power peacefully. Lord Balfour could write, in 1927, that Great Britain's political machinery "presupposes a people so fundamentally at one that they can safely afford to bicker. . . ." <sup>3</sup> More recent writers sometimes maintain that such an agreement on fundamentals no longer exists, that in every country the struggle for far-reaching social change spells the doom of democracy. If men will not submit peaceably and co-operate voluntarily in the achievement of this economic and social change, they must, it is insisted, be coerced. Yet liberal democracy and an extensive dependence upon violence cannot live together.

<sup>2</sup> Ramsay Muir, *How Britain Is Governed*, p. 4.

<sup>3</sup> Walter Bagehot, *The English Constitution*, p. xxiv.



## *The Challenge of Totalitarianism*

In a time of profound social upheaval, however, when institutional, transcendental religion has lost its hold upon so many people, there may well be a still deeper challenge to democracy than those yet considered: the challenge implicit in the assumption of the totalitarian creeds that government, or rather the state, must provide the spiritual faith for its people, and that political leadership, therefore, must have the attributes of a modern priesthood. For some the appeal of totalitarianism is for material security at a time when social and economic institutions are in flux, but to others it offers the appeal of a new religion which fills their spiritual vacuum, gives a meaning (however spurious) to their lives, and provides answers (however deceptive) about the future. The quasi-spiritual phraseology, the symbols and myths of the Fascist and Soviet ideologies are not the least of their attraction both in the Western world and in the newly independent countries of Asia. And there are many people who believe that democracy is failing to provide a satisfying alternative to the appeal of totalitarianism in a period of crisis and change.

## *The Test of Modern Government*

It is one of the paradoxes of modern politics that so broad an indictment of democracy is brought forward as "realistic" and yet that so little attempt is made to test its validity in the only realistic way: by looking frankly and in detail at the experiences of living governments and by comparing the theoretical analysis with the way in which these governments really work and with the kind of society they observably produce. In the nineteenth century it was not unusual to find men of aristocratic inclination proving, with some pretense of logic, that popular government could not possibly work at the very time that popular government in the United States was marked by a rather remarkable degree of prosperity, order, and liberty. It would be disingenuous today to pretend that a

similar assertion need not be subjected to the test of living experience.

It is, in fact, one of the strengths of democracies that they are not afraid of self-examination and reform in matter of principle as well as in administrative detail. If anything, indeed, democrats in a self-critical mood are likely to set up an excessively hard standard by which to judge themselves, comparing their institutions and practices with some ideal state of things which never has existed and which, short of the millennium, never will exist. Here, too, the only realistic approach is to make comparisons with those governments which claim to do better in practice as well as in ideal. For there is no reason why the practices and assumptions of authoritarian governments should be free from challenge and the test of experience. Their organs of public opinion are as deserving of examination as those of the democracies. So are their party systems, their institutions of representation, leadership, and administration, and their conceptions of human nature. And if it is harder to determine the relative value of ultimate ideals, it is quite possible to judge whether, in practice, the Soviet government and German National Socialism have been any more successful than the democracies in the realization of their avowed objectives, or in answering the deeper needs of their people.

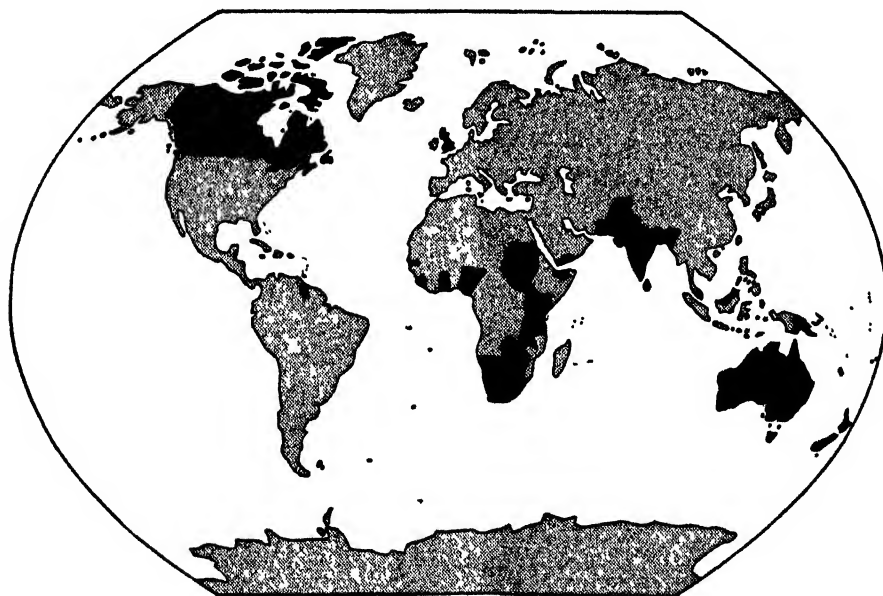
The purpose of this book is not to present a defense of democracy; and in their description of the individual governments, the authors have not thought of themselves as arguing a case. They have tried to be fair, accurate, and complete and to avoid the delusions of wishful thinking. Their aim, first of all, has been to convey an understanding of countries whose institutions and politics are of the greatest concern, both for the United States and the world as a whole. But the very information which makes this understanding possible is the evidence by which the more fundamental issues of the consequences, value, and success of different forms of government may be judged. And the reader to whom these issues are of concern should profit thereby.



# PART ONE

## THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

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## CHAPTER 1

# British People and Politics

### I. THE IMPORTANCE OF BRITISH POLITICS <sup>1</sup>

#### *Democracy and/or Socialism*

The British people today are attempting to answer one of the most bitterly disputed questions of modern times: Is it possible for a government to provide collectivist programs for the public good without endangering individual liberty?

In many parts of the world it is said that men must choose between political freedom and economic security. Some partisans of the extreme Left often insist that democratic methods are too slow and uncertain to achieve far-reaching economic reform. Some partisans of the Right deny that governmental action can bring about economic security without coercing the individual and eventually enslaving him. Yet both

<sup>1</sup> British government is the source of considerable terminological difficulty for Americans. The official but somewhat unfamiliar name of the country is "The United Kingdom of Great Britain and Northern Ireland," and it is the "United Kingdom" rather than "Great Britain" which appears in the indexes and lists of members of international organizations. "England" is only one part of the United Kingdom, together with Scotland, Wales, and Northern Ireland.

As a further complication, the word "British" properly refers not only to the inhabitants of the United Kingdom but also to all members of the British Commonwealth and dependent Empire.

Because of these difficulties, it is necessary to be somewhat arbitrary in one's choice of words. In this book, for the sake of convenience, the older and more common term "Great Britain" will be used in place of "United Kingdom." "British" will refer only to the inhabitants of the United Kingdom. "England" and "English" will refer only to the part of the United Kingdom which properly deserves the name.

Northern Ireland, it should be noted, differs from other parts of the United Kingdom in that its population of a million and a quarter not only has representation in the British Parliament but also has a legislature of its own at Belfast.

of Great Britain's large parties are pledged, in different measure, to a considerable amount of governmental direction of the economy to ensure material prosperity for the whole people, and both of them are deeply devoted to human liberty.

Where the parties differ is less in aim, or even philosophy, than in approach. The Labor Party believes that prosperity depends primarily on the working classes; thus they emphasize full employment out of which, they maintain, will come greater purchasing power and expansion of industry. In contrast, the Conservative Party places its primary emphasis on the enterprise of the capitalist class. Thus Conservatives favor government aid to capitalists through increased incentives, and believe that the resulting expansion of industry will create more purchasing power. Both parties, it should be noted, are dedicated to using the machinery of the state for carrying out their programs. Thus whichever party is in power, the British experiment with governmental planning will continue; and its success or failure will have great influence on the rest of the world.

#### *British Influence on Other Countries*

British political experience has long had unusual importance for other countries both because Great Britain is one of the world's great powers and because British institutions have been imitated in many other lands. No people in modern times have been more fertile in the invention and adaptation of political institutions. And although the British themselves have not always been conscious inventors, their slow evolutionary process has been conducive to political experiments by which many other nations

have profited. Wherever men of British descent have founded new governments in the last century and a half—in Canada, Australia, New Zealand, and South Africa—they have carried British institutions with them. Countries like Eire and India, at the very time of freeing themselves from British control, have borrowed from the political experience of their former rulers. And on the continent of Europe almost every democracy has been strongly, if in some cases less happily, influenced by the British example. The person who understands British government, therefore, has a clue to the governments of many of the world's democracies.

### *And on America?*

The British government, moreover, is the one which, more often than any other, is held up as an example for Americans to imitate. Some of its most ardent admirers, it must be confessed, value it for different and even conflicting reasons, and some of them seriously misunderstand its character. Yet it is a rare year in which at least one new book does not urge the American people to scrap some part of their constitutional machinery or their procedure in favor of the British equivalent.

For this reason it is important to understand the extent to which the two countries are comparable. The sharing of a common language and of common cultural, legal, and political traditions often encourages the assumption that the political outlook and conduct of the two countries ought also to be the same. Thus both nations take it for granted that peoples who are not "Anglo-Saxon" will differ from them in attitude and policy, but each is subject to a peculiar irritation when it finds its standards disregarded by the other. There is a certain shrewdness in the comment that Great Britain and the United States are divided by their common language.

There are, in actuality, important political differences between the two countries, differences which stem in large measure from dissimilarities in geography, economic structure, class divisions, way of life, and even inherited political ideas. Anyone who is to understand British politics, therefore, must first of all know something about these differences.

## II. THE ISLAND AND THE PEOPLE

### *The Island*

Nothing has been more important in British history than the fact that Great Britain is an island. About twenty-two miles of water separate the southeast shore of England from the European continent, but for many generations those few miles gave the British people something of the feeling of security which the Atlantic and the Pacific still give Americans. It is not very long since the British equivalent of American isolationists could seriously advocate a policy of cutting themselves off from political and military struggles in lands across the Channel.

Today, air warfare and the rocket bomb have destroyed any such hope. If the Channel prevented Hitler's armies from conquering Great Britain, it could not keep the Allies from their successful invasion of France, and it could not keep German planes and rockets from devastating many heavily populated centers in the British island. Yet there are certain ways in which the earlier protective role of the Channel still influences British politics. During the critical centuries when Continental states developed great standing armies which became an instrument of autocratic government, the British were relatively free from any corresponding threat. The British army, as the saying goes, was a navy; and a navy was hardly an asset in putting down popular resistance to royal authority on land. Security from invasion made it possible, in the seventeenth and eighteenth centuries, for the British to develop and consolidate free institutions of government at the very time that their neighbors across the Channel were submitting to absolute monarchy. Thus, if the Channel today has lost much of its defensive importance, the free institutions which it protected continue to exist.

### COMMERCIAL AND MILITARY POSITION

Great Britain's geographical position is important in another respect. So long as the Mediterranean was the chief path of trade, the island suffered commercially from its location on the fringe of the European world. But once America was discovered, the new trade routes turned the



island into a center of world commerce. The world's greatest banking houses were in London, and the favorable conditions for importing raw materials and exporting manufactured goods made the country the workshop of the world. If the island had remained purely agricultural, its population would necessarily have been small; but the profits from its industry made it possible before the war to import the food required to support a population of fifty million people.

Today this very dependence upon foreign trade constitutes something of a military as well as economic liability. Because of its relative poverty in raw materials other than coal, Great Britain must rely more than ever on outside sources if it is to maintain its factories; and because of its liquidation of foreign investments in order to pay for two wars, Great Britain must earn the money for food and raw materials by selling in foreign markets. Since it remains predominantly a processing economy, failure to maintain its imports or its foreign markets could be disastrous. In contrast to Great Britain, both the United States and the Soviet Union have vast resources and markets at home: in an emergency they could support themselves to a considerable extent. But to Great Britain such an emergency might mean death. Thus, where the United States and the Soviet Union, in military terms, think first of all of security from attack against the homeland, Great Britain must think of the equally fatal effect of any serious interference with its commerce with distant lands.

#### CLIMATE AND SIZE

Another geographical consideration of great political importance is the smallness of the British island and the evenness of its climate. Great Britain (not including Northern Ireland, which has an area of 5,244 square miles) has an area of only 89,041 square miles, as compared with 3,022,387 for the continental United States. The island is twice the size of Pennsylvania and a little smaller than Oregon, and the major portion of its population is concentrated in a relatively small area, since in the North and West (including most of Scotland and Wales) the country is hilly or mountainous. The climate, however, is remarkably even. There is somewhat more rain in the West and somewhat more

sun in the East, but the winters tend to be mild, the summers cool, and the rainfall fairly well distributed throughout the year. There is nothing to compare with the great range of climate and the vast distances which encourage the distinctive outlook and individuality of different American regions. On the contrary, the great bulk of the people live within a few hours' train or motor ride of London, and the same morning newspapers can be read throughout the island.

As a result, the Englishman is more likely than the American to think in national terms. In Scotland, there is still a strong local consciousness, intensified by economic misfortunes in recent years into a vocal if not significant Scottish "nationalist" movement. The particularist feeling in Wales is also marked. Scotland has long had a Secretary of State of its own in the British ministry, and in the Churchill Cabinet of 1951 there was, for the first time, a Minister of Welsh Affairs, the office being combined with that of Home Secretary. But less than one-sixth of the British population is Scottish or Welsh, and their political importance is far from decisive. In England itself, where the overwhelming majority of the people live, there is little particularist feeling. There is considerable interest in local history and in regional variations in landscape, architecture, and dialect. But this interest is not reflected in a distinctive political feeling. Political parties can use the same literature and emphasize the same principles in Somerset as in London or Norfolk or Yorkshire.

Thus Great Britain's homogeneity and compactness have an important political consequence. In American politics nothing is more significant than the extent of political decentralization. Not only do sections of the country like New England, the South, or the Midwest have a distinct character of their own, but each state has a complete government, and the most important political organizations in the United States are state and local rather than national. No American party can win a national election unless it carries several of the great sections, and every party platform represents a compromise of rival sectional interests. Votes in Congress often run on sectional rather than party lines, and even the nominations for national office must take geography into account: if the presi-



dential nominee comes from the East, the vice-presidential must come from the Midwest or West.

In Great Britain, in contrast, no one cares whether a party's leaders come from Durham or Devon or Essex. Unlike American practice, candidates for the legislature do not need to be residents of the constituencies for which they stand (see p. 62). Historically, the smallness of the island simplified the task of centralizing the government; and governmental centralization, reinforced by ease of transportation and communication, has fostered a well-integrated political and economic life. None of the most important political issues in Great Britain is primarily sectional in character; statesmen are free to think in national rather than local terms.

### ***The People: Nationality***

In origin the inhabitants of Great Britain are both ancient and diverse, the early history of the island being one, almost to the point of monotony, of invasion, conquest, and settlement by different peoples coming from a great variety of geographical sources. In later years Shakespeare could hail the "silver sea" surrounding the British isle and serving it

. . . in the office of a wall,  
Or as a moat defensive to a house  
Against the envy of less happier lands.

But in prehistoric and early historic times, the seas often acted as a highroad bringing invaders and visitors from far places.

The first historical knowledge we have of the inhabitants of the island comes from a time when most of Great Britain was inhabited by Celts. By reputation they were a folk of imagination and quick intelligence, though somewhat lacking in discipline and emotional restraint; and even today there is an amusing tendency to attribute any marked strain of individuality or lyricism in English writing, or any "un-English" political excitement among the masses of the people, to a survival of this Celtic element in the national character.

For a time, from the first to the fifth centuries A.D., England and a part of Scotland were under the control of the Romans; but apart from their famous roads, a number of ruins, and some

place names, few direct traces of their influence survived. With the withdrawal of their legions early in the fifth century, the island was left open to the inroads of various Germanic peoples: Angles, Saxons, Jutes, and, later, Danes; and as the invaders penetrated westward, it was only on the fringes of Wales, Cornwall, Cumberland, and Western Scotland that the Celts continued to predominate.

The last great invasion of England took place in 1066, when the Normans gave the country, for a time, a ruling class which was French in customs, language, and manners, but which was not numerous enough to make fundamental changes in the composition of the population. Since that time there has been no successful invasion of the country; and the foreigner, far from being aware of the diversity of origin of the people, is likely to be impressed by the extent to which they have become a single, homogeneous body. Except for the Celtic fringe of Wales (where about 30 per cent of the people even today speak Welsh) and Scotland (where a few Highlanders speak Gaelic) and a few large cities in which Irish immigrants are numerous, the British today are exceptionally uniform in speech, religion, and way of life. There is nothing to correspond to the presence in the United States of a large Negro minority, or of large numbers of recent immigrants with different languages and ways of life; and no English statesman need indulge in pre-election speculation of the sort which makes American politicians worry over the destination of the Polish or Italian vote and which encourages them to sprinkle the party ticket with names of candidates from all of the major nationality groups.

### ***The People: Religion***

Religion has had a greater influence upon British politics than most of the British themselves realize. It is politically important, for example, that there is no great religious division and that, as a whole, the island's people are overwhelmingly Protestant. A few of the oldest and noblest families are Catholic, and recent immigration from Ireland has added significantly to this church's adherents in the poorest and least influential sections of society; but altogether less than five of the island's fifty millions of inhab-

itants are Catholic (in comparison with almost twenty-eight million Catholics out of a total population of one hundred and fifty million in the United States). Politicians like to talk about the "Catholic vote," but there is no basis whatsoever for a Catholic political party like those which exist in France, Italy, and other countries.

Of greater political significance is the division which exists within the Protestant church. At present more than half the population of England are, at least nominally, adherents of the Church of England (the Anglican Church, which corresponds to the Episcopal Church in the United States); about one quarter are in some degree attached to the Free Churches (the "Nonconformists," who are generally Methodists, Baptists, Congregationalists, or Presbyterians). In Scotland, however, the mass of the people belong to the (Presbyterian) Church of Scotland, and in Wales most of the people belong to Nonconformist denominations.

#### THE CHURCH OF ENGLAND

Because it is an established church, the Church of England is to a certain extent involved in politics. Its head is the King of England, and representatives of the Church sit in the House of Lords and help to make the law of the land. It is the Anglican clergy who perform the ceremony of crowning the King and who open Parliament with prayer. The highest members of the clergy are nominated by the King, who acts upon the advice of his Prime Minister; and the creed of the Church of England is established by parliamentary statute and may be changed only by parliamentary action.<sup>2</sup>

More important than the present state of the establishment, however, is the historical influence of the opposition between the Church of

England and Nonconformity. Authority in the Church of England, as just noted, traditionally has come from above, and it was natural for those accustomed to authority in the church to support it in the state. The famous comment of James I, "No bishop, no king," typifies the inclination of English monarchs to regard the Church as a pillar of their power. Even today, although the clergy are no longer required "four times every year at the least" to preach upon the Royal Supremacy, and although the Church is now self-governing in most matters, there is a marked tendency for those who are Anglican in religion to be Conservative in politics. And the Conservative Party still considers itself, to some extent, the special defender of religion and the interests of the Church.

#### NONCONFORMIST INFLUENCE

The English Nonconformists, in contrast, have tended to be critical of state authority ever since their persecution in the seventeenth century.<sup>3</sup> The Congregationalists (who still call themselves "Independents") and Baptists practiced a peculiarly loose and individualistic form of church organization. Authority rested in the congregation, not in a clerical hierarchy, and members were free at any time to withdraw and form new churches. Such ideas, when applied in the political sphere, are closely related to the American Declaration of Independence (both denominations, of course, colonized New England) and provide grounds for questioning the legitimacy of any authority not based upon consent. Thus it is understandable that Nonconformists were the backbone of the revolt against Charles I, and that it was among Nonconformists that the ideas of the American and, in its early days, the French Revolution met with the greatest acceptance. The reaction against the French Reign of Terror for a time made Nonconformists more conservative, but throughout the nineteenth century the Liberal Party, with its emphasis on personal liberty and the limitation of state authority, drew its strongest support from their churches. Today, with the de-

<sup>2</sup> Since it often happens that the Prime Minister is not himself an Anglican, there results an odd situation (and one which many Anglicans dislike) under which the highest clergy of the Church may be nominated by a Welsh Nonconformist like Lloyd George, a Presbyterian like Balfour or Bonar Law, or even—to achieve the ultimate in doctrinal incongruity—by a Unitarian like Neville Chamberlain. Moreover, Members of Parliament are elected by voters who in the majority are not active members of the Church of England; and many members of Parliament are Nonconformists, Jews, Catholics, or members of no church at all. Thus, in 1927 and 1928, changes in the Prayer Book of the Church of England, requested by the representative bodies of the Church, were refused by Parliament partly because of the votes of Nonconformists and even—to the scandal of the devout—of one Parsec.

<sup>3</sup> The Methodists, whose religious activity began in the eighteenth century, are an exception to this rule. But although they preached a doctrine of obedience and submission to state authority, they organized for vigorous political action on such issues as prison reform and the ending of the slave trade.

cline of the Liberal Party, there is a large Nonconformist element in the Labor Party.

It is still possible, in several important respects, to trace the influence of Nonconformity upon British politics. In the first place, the Nonconformists' demand for the toleration of different religious ideas and organizations made it natural to insist that in politics, too, there should be room for different ideas and political parties. In addition, Nonconformity is the source of the "Nonconformist conscience" (a first cousin of the "New England conscience") which has come to be shared by a large section of the Anglican Church and which insists that the conduct of the government, in foreign as in domestic policy, must be moral and Christian. Thus British leaders often find it necessary to justify their policies in high-sounding moral terms which occasionally strike the foreigner as hypocritical. The conscience, however, has more than a verbal effect upon politics. Some policies cannot be given even the most hypocritical justification, and the statesman who forgets this may find his projects swept aside by a wave of moral indignation. Thus the Hoare-Laval plan for the partition of Ethiopia in 1935, which was prepared by French statesmen but which received the approval of the British Cabinet, had to be abandoned because of the outcry against it in Great Britain.

Yet if the Nonconformist heritage has had an idealistic influence upon British politics, it has also had an intensely practical one. In some Continental Protestant churches, political action has always been suspect: but the British churches have encouraged a general interest and participation in politics. It used to be said in the nineteenth century that every Nonconformist chapel was a recruiting station for the Liberal Party. The Methodist Church, in particular, was well organized for political action. Its local "classes," which met weekly under the guidance of lay preachers, were the basis of democratic local and regional organizations which acted with exceptional effectiveness under the centralized direction of a national executive and conference. When the Labor Party was founded, it was no accident that its party organization combined local democracy with a high degree of centralization, for many of its early leaders were themselves Methodist or Baptist lay preach-

ers who could place both their eloquence and their practical knowledge of organization at the disposal of the new party.

In addition, the Nonconformist churches made their chief appeal to people in the middle and lower classes whom the established Church failed to reach. In countries like Russia or France or Germany, where the church tended to identify its interests with those of the upper classes, it was natural to regard the church as an ally or tool of an oppressive state, an instrument for keeping the exploited in subjection. But in England the lower classes had a church of their own which was itself to some extent oppressed by and critical of state authority. Accordingly, there was no need, in attacking political injustice, to attack religion as well. On the contrary, religion played an important part in fostering both the trade union and the socialist movement in Great Britain. And since it is difficult to be both a Christian and a believer in the extreme doctrine of class war, religion contributed to the moderation as well as to the idealism of the Labor Party.

Today it is noteworthy that all of the British churches co-operate in programs of social betterment, and that eminent Anglicans, like the late Archbishop of Canterbury, William Temple, and Bishop Gore, may be advocates of radical economic reform.

### Way of Life

In way of life, as in nationality and religion, the British people are exceptionally homogeneous. The sentimental American still likes to think of England as a "green and pleasant land" of villages and churches and country houses, and the tourist still prefers a visit to the Lake Country or Stratford-on-Avon to an acquaintance with Manchester or Glasgow. But the unromantic fact is that Great Britain is heavily urbanized and industrialized; its population is the densest of any great country in the world (although almost matched by today's truncated Germany). The United States has about 44 people to the square mile; Great Britain has around 505. Fifty-six and one-half per cent of the American population is classified as urban, but 80 per cent of the people of England and Wales and 70 per cent of the people of Scotland

are so classified. In the United States, 19 per cent of the people are farmers or fishermen, and 37 per cent are workers in industry, mining, transport, and so forth; but in Great Britain only 6 per cent of the people are farmers and 54 per cent are workers. There are two workers for every farmer in the United States, but in Great Britain there are nine.

The political consequences of this situation are very important. In the United States, quite apart from the fact that the farm states control the Senate, it is obvious that a party which appeals primarily to the urban workers cannot control the national government or win a national election. In Great Britain, however, the Labor Party<sup>\*</sup> has been able to win a strong majority of the seats in Parliament while making just such an appeal. In the United States, any feasible political program must attempt to satisfy simultaneously the farmer, the worker, the middle classes, and the businessman. But in Great Britain, although no party ignores the farmer or, particularly, the growing class of white-collar (or "black-coated") workers, the problem of achieving a winning combination of forces is greatly simplified.

#### CLASS DIVISIONS AND CLASS ORGANIZATIONS

The great majority of the British workers are employed in fairly large workshops or factories, and it has been natural for them to resort to mass organization and action, both economic and political. The trade unions have more than eight million members, most of whom are united in the Trades Union Congress (the T.U.C.). But in contrast to the United States, where the unions customarily refuse to identify themselves with any political party, and also in contrast to countries like France and Italy where a political party may seize control of a union and use it for its own purposes, the British unions themselves control the powerful Labor Party and regard it as the political arm of the labor movement.<sup>\*</sup> Employers on their side are organized in the Federation of British Industries (abbreviated F.B.I.) as well as in less inclusive groups, and big business unhesitatingly throws its support to the Conservative Party.

Consumers also wield a certain political influ-

ence, although their primary concern is economic. Great Britain is the original home of the co-operative movement, and today about half the families in the island are members of consumers' associations which run their own retail stores and in some cases own and manage their own factories. Profits are distributed to members as dividends. In most instances, consumers' organizations are affiliated with the Consumers' Union, and there is also a Co-operative Party which sponsors certain candidates for Parliament jointly with the Labor Party and pays their campaign expenses. As one would expect, the great majority of the members of the co-operative societies are drawn from working-class families, but in some suburban areas there is also a large middle-class membership.

The class division in industry has a certain parallel on the farm. In great contrast to the United States, where the small farmer who owns his own farm is of outstanding political importance, the ordinary British farmer is a tenant. The number of independent owners is on the increase, but even today only one-third of the cultivated land in England and Wales is farmed by men who own their own farms. Most of the farmers are employees or tenants on a relatively small number of large estates whose owners have traditionally been in a position to control their tenants' political activities. Since the landlords are overwhelmingly Conservative in politics, rural areas have commonly been regarded as a stronghold of the Conservative Party. In recent years, however, the Labor Party has attempted to work out special techniques for political activity in such regions, where open support of its program might result in retaliation; and it has taken great satisfaction in the fact that since 1945, particularly in Norfolk, it has been able for the first time to make considerable inroads in the farm vote.

#### THE MIDDLE CLASS

Great Britain today is also characterized by the growth of a new kind of middle class. During most of the nineteenth century, the middle class of businessmen, shopkeepers, and professional men was often referred to as the politically dominant class. With the continued growth of large-scale industry, however, and with the extension of voting rights to the working class,

<sup>\*</sup> For a fuller discussion of the connection between the trade unions and the Labor Party, see below, p. 46.

the relative importance of that middle-class group declined. The more prosperous businessmen identified themselves with the upper classes, while a new kind of lower middle class appeared, composed of clerical workers, shop assistants, hotel and restaurant workers, and providers of personal or public services. Thus the "nation of shopkeepers" who owned their own businesses increasingly gave way to a nation of clerks who were dependent on others, and in particular on the state, for employment.

The professional classes, who still carry on the tradition of the old middle class, complain that neither the Labor Party nor the Conservative Party shows very much concern for their interests. Both parties, however, would like to win the votes of the new lower middle class, and in recent years Labor has had some success in appealing to it. True, this class still thinks of itself as socially a step above the class of manual workers who form the backbone of the Labor Party. Yet many a white-collar worker earns less than a skilled manual laborer, and he is just as eager for protection against the financial hazards of ill health, unemployment, and old age. Income figures before the war indicated that the average person in Great Britain, whether manual worker, white-collar worker, or farmer, could not save enough to meet emergencies or even to provide education and, in many cases, adequate nourishment for his children.<sup>5</sup> Thus a slogan like "security from the cradle to the grave" had a tremendous appeal, and every party in Great Britain, even before the end of the war, had made social security a part of its electoral program.

<sup>5</sup> Statistics indicated that in prewar Great Britain poverty was more extensive than in the United States and economic differences more extreme. Only one-half of one per cent of the families received incomes of £2,000 or more a year, while 88 per cent received less than £250. In the United States, statistics published in 1936 indicated that 46.5 per cent of American families had incomes of \$1,000 a year or less and that 82 per cent had \$2,000 or less, while .4 per cent received \$10,000 or more.

Two-thirds of those who died in Great Britain left less than £100 of property, and leaders of the Labor Party liked to point out that 10 per cent of the people received 45 per cent of the national income, while 90 per cent of the people had to share the remaining 55 per cent.

By 1950, however, heavy taxation due to the war and, to some extent to social welfare measures, coupled with increases in wages, had greatly lessened the disparity between lower and higher incomes. At the top of the scale, equaliza-

## CLASS AND MASS

Although income and occupation are important elements in the British class structure, class distinctions also depend heavily upon other considerations: tradition, education, behavior, manner of living, and even accent. In the past, people have generally been divided into those who are "gentlemen" and those who are not. The gentlemen are not identical with the nobility, although they include it;<sup>6</sup> and the important line of demarcation runs, not between the aristocracy and the middle class (as is often the case on the continent of Europe), but between the upper middle class and the lower middle class.

The most important factor in determining who falls on which side of the line is education. Those who have been educated at one of the good public schools (a name which often confuses Americans because the British "public schools" are more or less the equivalent of our private preparatory high schools) are set apart from those who have not. In such schools the traditional aim is to develop "Christian gentlemen" who are disciplined, loyal, and decent, who "play the game," bear pain and discomfort with a "stiff upper lip," and know how to wield authority and how to elicit respect from those they rule. In public schools which follow the inherited pattern, older students (known as prefects) rule over their fellows; both prefects and masters may deal out corporal punishment; participation in sports is considered of utmost importance; the chief educational concern is with the classics; and religion holds a central place. The system has often been criticized for its lack of democracy and for its tendency to consider intellect less important than good sportsmanship

tion of income had gone further than in any other country, £6,000 a year being about the maximum after taxes had been paid. In contrast, the average wage earner was about 20 per cent better off in April 1949 than before the war; and wage earners received nearly half the total disposable money. Salaries and profits both declined in the same period. For further consideration see p. 201.

Until 1949, the British pound sterling was worth approximately \$4; in that year it was devalued to \$2.80. But it is possible to buy considerably more with this amount of money in Great Britain than in the United States.

<sup>6</sup> In Great Britain, unlike some other countries, a title ordinarily descends only to the eldest son, while the rest of the children of a nobleman become "commoners." Thus a person may be closely related to a number of peers without having a title himself, and the distinction between the aristocracy and the upper middle class is blurred.

and the acceptance of the traditional code of behavior. Yet many foreigners as well as many Englishmen admire the type of citizen which results. Where upper classes in other societies have regarded the possession of money or of physical force as sufficient warrant for their power, the British upper classes have had a reputation for decency, dependability, and devotion to public service which has helped to preserve their political influence in an increasingly democratic age.

Part of the strength of this class comes from the cohesion imposed by its way of life. Its members have gone to the same exclusive public schools, as typified by Eton and Harrow, and they have attended the universities at Oxford or Cambridge.<sup>7</sup> They have married among the same established families, they have belonged to the same clubs, they have followed the same sports, they have mingled socially at the same houses, and they have generally followed the same professions: managing their estates or going into the army, the government, the law, or the church. More recently business has lost some of the taint which used to make it bad form for a gentleman to be "in trade," and many peers have accepted directorships in commercial and industrial enterprises.

The barrier between the upper classes and the rest of the population has not been completely rigid. On the contrary, the old ruling class has prided itself upon its ability to assimilate, although in limited numbers, the more able and eminent of its fellow citizens regardless of birth. Many of the industrial leaders of the country have acquired peerages after rising from humble beginnings; and today manufacturers of beer, patent medicines, soap, and custard, as well as the directors of railroads, banks, and shipping concerns, sit in the House of Lords side by side with descendants of the Cecils, Cavendishes, and Stanleys. Yet the new commercial and manufacturing gentry have been careful to conform to the pattern established by the older aristocracy: purchasing country estates, abandoning the Nonconformist chapel for the Church of England, seeking admission to the right clubs, sending their children to the correct fashionable

schools, and eventually intermarrying with the older families.

As a result, the prestige of the older families, when combined with the wealth of the newer, enabled the upper classes, at least until the election of 1945, to wield a political influence out of all proportion to their numerical importance in the country. They were heavily overrepresented in Parliament and in the government in general, and they were often accused of dominating the courts, the press, the church, the armed forces, and the civil service, particularly the Foreign Office. There were times when the Cabinet itself resembled a reunion of Old Etonians (as under Prime Minister Balfour) or Old Harrovians (as under Prime Minister Baldwin). Even in Mr. Churchill's Cabinet of 1951 there were seven Old Etonians and two Old Harrovians among sixteen members.

Today, however, the political position of this class is threatened as never before. The war with its higher taxes and greater governmental controls over commerce and industry had already sapped some of its strength, and important changes in the educational system had threatened the basis of class distinctions even before the victory of the Labor Party in 1945 for the first time placed decisive political power in the hands of another group. Yet traditions are slow to die in Great Britain, and it would be rash to predict that an upper class which in the past adapted itself to the Industrial Revolution and the advent of political democracy will not be able, even under collectivist programs, to retain something more than the shadow of its former position and power.

### *The National Economic Problem*

Today the British government faces an economic problem of overwhelming seriousness. In the past Great Britain was wealthy and powerful because it was the workshop of the world, and so long as it remained the only advanced industrial country, its position and prosperity were secure. But once other countries—Germany, the United States, and, later, Japan—began to compete with it in world markets, and once smaller countries developed their own industries (often behind tariff walls which shut

<sup>7</sup> British education has become increasingly democratic, however, particularly since World War II, and today more than half the students at Oxford and Cambridge are on scholarships. For more details see pp. 195-97.



out British goods), Great Britain found itself in an increasingly difficult position. At first its great financial investments abroad helped to cushion the change; but many of these investments had to be liquidated in order to pay the cost of two world wars, and the country now is dependent primarily upon its immediate productive powers.

As we have already observed, Great Britain is comparatively poor in resources. Coal is the only important natural resource of which there is a surplus, and even the output of coal is too small for export needs. Much of the food, all of the cotton and rubber, most of the oil and timber, and much of the iron needed to provide fifty million people with work and with a decent standard of living must be imported—and paid for. But these goods can be paid for only if foreigners are ready to buy goods manufactured from the raw materials; therefore Great Britain must manufacture not only for its own needs but for export—in order to pay for the raw materials which it turns into manufactured products both for itself and for other countries.

Moreover, because of the loss of income from foreign investments, the British have had to increase their foreign sales substantially above the prewar level simply in order to recover their former standard of living; and this had to be done at a time when war damage had to be repaired, when much of their manufacturing equipment needed modernization or replacement, when workers were tired after the extraordinary strain of wartime exertion, and when (because of a lower birth rate and improved medical knowledge which has prolonged the lives of the elderly) a growing proportion of the population was made up of older people who could not do productive work and who had to be supported by the rest of the population.

From 1945 to 1950, by a grim, sustained effort, the British increased their export level to the phenomenal amount of 70 per cent above prewar levels. This was done by systematically diverting goods away from the home market where they were much in demand and sending them abroad. In 1949, for example, half the commercial vehicles, two-thirds of the automobiles, two-fifths of the agricultural machinery produced in Great Britain were exported. By 1950, this effort plus American aid through the Marshall Plan stabilized Britain's balance of pay-

ments for the first time. At that moment, however, the need for rearmament in the face of threatening Soviet expansion endangered the success of the program, for the most effective earners of overseas credits are just those industries most essential for defense production. Thus the British continue to face an urgent balance of trade problem, while the home market can hardly be starved further without impairing the standard of living and creating such inflationary pressures as the economy can hardly stand.

#### THE ROLE OF THE STATE

All these economic and social problems have drawn political problems in their wake. In the first place, all the groups in the community insist that the state shall ensure what they consider reasonable standards of living. Organized workers have turned to the government to ensure better working conditions, shorter hours, and higher wages. Manufacturers have turned to the government for subsidies and protection from foreign competition. The elderly demand pensions. And the great masses of the people, whether white-collar workers, skilled craftsmen, or unskilled laborers, are eager not only for protection against the financial burdens of unemployment, ill-health, and old age but also for government intervention to assure decent housing, a decent diet, and satisfactory education.

But the problem has more aspects than this. During the war, vast numbers of controls were instituted to mobilize British resources towards the single end of national survival. At the end of the war, as we have seen, these controls could not end. They have been retained, and in some instances increased, in the postwar "battle for exports."

The demand for social welfare, the need for defense, and the struggle ever to increase the export surplus has resulted in a massive expansion of governmental activities. This is the problem which all political parties in Great Britain must face. There is a danger, particularly for foreigners, of seeing the British situation in oversimplified terms, in not recognizing that this is not merely a great experiment in establishing a welfare state but also, at the same time, the effort of a great country, which in the past was the foremost of world powers, to regain by rigorous sacrifices something of its former position.

Both factors are constantly operating to affect governmental policy and governmental machinery. Accordingly, it is quite clear that the state must continue to play a vast and pervasive role in the affairs of the British community.

### III. ORGANS OF POLITICAL OPINION

#### *Politics and Public Opinion*

In studying the politics of any country, it is important not only to understand the nature of the social, economic, and other divisions of the population, but to discover what organs of public and political opinion are available for the expression of these interests.

Experts still disagree about the exact meaning of "public opinion," but no one today challenges the fact of its importance. In democracies it has long been assumed that governments ought, in general, to do what their people want them to do. But even in dictatorships the rulers, far from ignoring public opinion, have become proficient in the arts of molding and manipulating it. In every modern country, regardless of form of government, the press and the radio are political weapons of tremendous power, and few things are so indicative of the nature of a government as the way in which that power is exercised.

#### *The Press*

In a democracy like Great Britain the press, ideally, has three political functions: information, discussion, and representation. It is supposed to give the voter reliable and complete information on which to base his judgment, it should let him know the arguments for and against any policy, and it should reflect and give voice to the desires of the people as a whole, particularly in the relatively long periods between elections. In performing these services, however, the press may be restricted by action of the government or of private interests.

On the first score the British have had comparatively little to complain of. In the years before World War II, when the Conservatives were in power, there were occasional complaints that certain officials had tried to influence the press, the radio, and even newsreels in an attempt to

prevent the publication of inconvenient news items or distasteful opinions. There was no open censorship, but tactful suggestions might be made to editors, reporters, or proprietors; and since proprietors often were Conservative in sympathy, and since editors and reporters might conceivably be reluctant to antagonize officials upon whom they were dependent for information, the suggestions may have had some influence.

During the war itself, the government acquired extraordinary authority under the Emergency Powers (Defence) Act of 1939 (not unlike its predecessor, the Defence of the Realm Act, 1914), to prohibit publications which were likely to cause serious public disorder or to promote disaffection. But these powers were exercised, on the whole, with laudable restraint.

#### THE STRUCTURE OF THE BRITISH PRESS

In the past the strongest criticism has been directed, not against the government, but against a small group of newspaper owners who are popularly known as "press lords" and who are accused of using their power to control the ideas and information which reach a large section of the British public. Unlike newspapers in the United States, the typical large morning newspaper in Great Britain has a national rather than a local circulation, and this circulation is far larger than anything Americans are acquainted with. In 1951 (at a time when almost no American paper, except tabloids, had a circulation of even one million copies) Lord Beaverbrook's *Daily Express* had a circulation of over four million, the *Daily Herald* (organ of the Labor Party) had a circulation of over two million, Lord Rothermere's *Daily Mail* slightly more, the *News Chronicle* (which, though Liberal in politics, supported many Labor measures after 1945), just over a million and a half, and Lord Camrose's *Daily Telegraph and Morning Post* just under one million. Seven London morning papers have a combined circulation of fifteen million copies, while in the United States, with nearly three times the population, 334 different journals have a total morning circulation of only twenty-one million. Many British provincial newspapers, in addition, are grouped in great chains like those belonging to Lord Rothermere, Lord Beaverbrook, Lord Kemsley (who



also owns the *Sunday Times* and a London tabloid, the *Daily Graphic*), and the Westminster Press. Proprietors are organized for common action through the Newspaper Proprietors Association in London and the Newspaper Society in the provinces, while news agencies like the Press Association and Reuters (which, in its collection and distribution of foreign news, has acquired the reputation of speaking for British interests and reflecting official British policy) are jointly owned.

In a country where party lines tend to follow class lines, the structure of the press seems to have favored and to continue to favor the Conservative Party. Legally, of course, anyone is free at any time to start new and competing newspapers, but for all practical purposes the cost of such ventures is almost prohibitive. According to report, it required ten million dollars to put the *Daily Herald* on a paying basis, and few men or organizations can afford such a price. Those who can, rarely feel much sympathy for socialism, and the Labor Party frequently complains that the great majority of British newspapers are weapons in the hands of its enemies, who use their publications for partisan purposes rather than as sources of complete and impartial information.

Conservatives, on their part, reply that no paper is more one-sided in its reporting of the news than is the *Daily Herald*, whose policy is directed by the Trades Union Congress, though the paper is owned by Odhams Press; and they insist that the *Daily Herald*, the *Liberal News Chronicle*, the *Daily Mirror* (a popular tabloid which supports Labor, and has a circulation of over four and a half million, the largest of any daily in the world), and *Reynolds News*, the Sunday newspaper of the co-operative movement, give the opponents of Conservatism a sufficiently powerful voice to make charges of monopoly ridiculous.

It is true, of course, that the concentration of British journalism in London throws more power into the hands of a newspaper owner in Great Britain than in the United States. Many of the press lords insist that their papers shall reflect only their personal political preference; even Lord Beaverbrook, though his papers long published David Low's cartoons, has declared publicly that "I ran the paper purely for the pur-

poses of making propaganda on my own issues." But when the charges of "monopolistic tendencies in the control of the Press," put forward by the National Union of Journalists, and endorsed by left wing elements in the Labor Party, were examined over a two-year period by a Royal Commission on the Press set up by a House of Commons resolution in October 1946, they were not found to be valid. "There is nothing approaching monopoly in the Press as a whole," declared the Commission. Moreover, it found that the British Press has "high standards of public responsibility and service," is "jealous of its own independence and reputation," and that many employed in it have "a sense of vocation." At the same time, the Commission warned that "Partisanship is present in some degree in all the papers. . . . The Press is part of our political machinery which is essentially partisan. But partisanship can and does on occasion lead to a degree of selection and colouring of news which can only be regarded as excessive." The chief, and rather weak, recommendation which the Commission made was similar to that of the American Commission on the Freedom of the Press: a General Council of the Press to raise the standards of the profession, and represent it in relations with the Government. No support was given to major changes in the ownership and control of the Press, and above all, to State control of the Press.

It is difficult, in fact, to tell just how much influence newspaper partisanship has upon the British voter. Surveys of circulation indicate that the regions in which the *Daily Herald* predominates (South Wales, for example) tend to vote for Labor, and that those in which Lord Kemsley's *Western Morning News* predominates (as in the West Country) vote Conservative. Certainly the *Daily Telegraph* and the *Daily Mail* predominate in the southern suburbs of London, which are Conservative strongholds. But it is at least as likely that readers choose the newspaper which corresponds to the political convictions they already hold as that they acquire their convictions from reading the paper. Particularly since Labor's sweeping victory in 1945, when the larger part of the press was opposed to it, there has been a tendency to discount the power of the press and to assume that the voter is in-

telligent enough, when he does not buy his paper purely for amusement, to identify the political prejudices of its publishers and to make the necessary allowances. Moreover, it is common in England to read three or four newspapers, so a more balanced view may result than might be expected.

#### THE INFLUENTIAL PRESS

One of the important characteristics of British politics is the influence wielded by several periodicals of more limited circulation than the giant newspapers. Among them, the *Liberal Manchester Guardian* has an international reputation for the excellence of its news and editorial comment, while *The Times* of London is the most powerful of the island's newspapers. Although its circulation in 1951 was only 256,000, its readers include the most eminent people in Great Britain: government officials, politicians, judges, diplomats, scholars, clergymen, officers of the army and navy, and the well-educated classes in general. Its reporting is noted for reliability and completeness, if not for liveliness; and, especially in foreign affairs, its reputation for reflecting or even anticipating government policy gives it an almost official tone. Perhaps its most famous feature is "Letters to *The Times*," which may provoke a national debate as effectively as can a speech in the House of Commons.

In addition to these daily papers, certain weekly periodicals like the *Economist* (Liberal in attitude, though sometimes said to follow "the politics of the dead center"), the *Observer* and the *Spectator* (both of which are moderately Conservative in tendency), and the *New Statesman and Nation* and the *Tribune* (which speak for different groups of left-wing Laborites) wield great influence. Such publications make no attempt to win a circulation in the millions, and they can afford to indulge in discussions of ideas and issues which require considerable intelligence on the part of the reader. It is in these periodicals, rather than in the daily press, that new and unorthodox ideas can best win a hearing; and since the readers are, as in the case of *The Times* and the *Manchester Guardian*, men and women who themselves influence opinion and legislation, such publications often exert a greater influence on politics

than do newspapers with many times their circulation.

#### The Radio

In contrast to the predominance of private enterprise in the publishing field in Great Britain, broadcasting is a government monopoly. The British Broadcasting Corporation<sup>8</sup> is so organized as to guarantee complete impartiality, and there are some who complain that this impartiality has been pushed to the point of colorlessness. At election time each of the principal political parties is granted time on the air roughly in proportion to the number of its candidates for Parliament. In 1945, the Conservatives and Labor each had ten broadcasts, the Liberals four, and the Communists one; in 1950, the number was cut down under the belief that the public had been saturated in 1945, and there were five Conservative, five Labor, three Liberal, and one Communist broadcast. The number of broadcasts was the same in 1951 except that the Communist Party did not qualify for free time since it had nominated fewer than fifty candidates. It is some indication of the political importance of radio that during the 1945 campaign about 45 per cent of the public listened to the broadcasts, and in 1950 between 33 and 39 per cent, that is between fifteen and twenty million people. In 1951, television was used for the first time in campaigning and with considerable effect.

At other times, however, the B.B.C. is likely to shy away from anything very controversial, though there are "brain trust" forums and similar discussions which analyze public issues, and social and economic problems, with vigor and wit. But since any political or pressure group in Great Britain may vigorously protest if it thinks that a broadcast tends to favor its opponents, the safest course has been to concentrate upon a purely formal and factual presentation of the news. Thus a political commentator with decided views of his own is likely to have a short broadcasting life, and the radio, while providing the listener with a way of checking the factual accuracy and completeness of his newspaper, offers little of the discussion and interpretation in which the weeklies excel.

<sup>8</sup> For a fuller discussion see pp. 143-45.

### ***Adequacy of the Organs of Information and Opinion***

The press and radio in Great Britain offer a suggestive contrast both with each other and with the corresponding institutions in the United States.

If one takes as one's standard the opening of channels for different views, for free discussion, and for reliable information, then the great American advantage is that there are many more such channels. Where British national newspapers have tended to drive local papers out of business, most American cities still have daily newspapers of their own, making it easier for different regional views to be expressed. Yet even in the United States the growth of the chain newspaper has restricted this independence; the number of daily newspapers has declined sharply from 2,600 in 1909 to 1,890 in 1951. Even more serious is the decline in the number of cities with competing dailies, from 549 in 1920 to 220 in 1951. Thus, while there are more daily newspapers in the United States, there are nevertheless many towns where the reader has no choice between papers of different political outlook.

In contrast, the great advantage of the British press is the fact that every powerful political movement in the country has an organ of national circulation and that anyone on the island can choose among several national newspapers which differ widely in their views. The great disadvantage is that the extraordinary expense of starting a rival newspaper turns the political groups which already have papers of their own into vested interests.

In theory the radio should in both countries provide a notable instrument for political information and expression. Yet in the United States, although there is independence of ownership

and a freer expression of opinion on controversial issues, the influence of advertising agencies and sponsors restricts the amount of time devoted to public affairs, while political comment tends to be one-sidedly conservative. Still, the British experience hardly suggests that government ownership is the answer.

For both press and radio, there seems to be no simple solution. To place control in the hands of private owners is often to give a disproportionate voice to conservative political groups. To place control in public organizations like political parties, co-operatives, trade unions, or business associations may give a wider representation to divergent views, but such organizations are likely to be even more one-sided than private owners in their presentation of the news. To place control in the government, quite apart from any danger inherent in official control of the sources of information, may be to achieve impartiality in reporting at the expense of the most fertile kind of political discussion and argument. To place control in the sort of trusteeship under which *The Times* and other papers are published may provide greater personal freedom for editor and writers, but there is a possibility of deterioration through lack of competition.

Increasingly, it is suggested that the best solution lies in the simultaneous existence of a variety of forms. The competition of privately owned publications can act as a spur to those owned by public bodies or by trusteeships, while the existence of the latter can provide a check upon the accuracy and completeness of the former. For this reason, although the Beveridge Report in 1951 endorsed the public monopoly in radio broadcasting (see p. 144), many Englishmen would favor setting up a privately owned business corporation and a co-operative organization controlled by its own staff to compete with the B.B.C.

## CHAPTER 2

# The British Political Heritage

### I. HISTORICAL BACKGROUND

#### *Continuity and Change*

Few things are more perplexing to the outside observer than the British habit of preserving the form of inherited institutions while modifying both their spirit and their function. Other great countries like France, Russia, and Germany, have altered their political systems openly, deliberately, and violently. But in Great Britain, with only one important interruption, political innovations have occurred gradually and at times almost imperceptibly. In many instances change has resulted not so much from logical forethought as from an almost casual blend of improvisation, expediency, and accident. And although the growth of British institutions can be traced through many centuries of history, this development has been so unmarked by precise and sensational innovations that frequently it is hard to tell exactly when a certain practice first appeared, or even to state with certainty what English political institutions were like at a given historical moment.

#### *Origins of the Parliamentary System*

The origins of the British Parliament often are traced to ancient Anglo-Saxon times when a council known as the Witenagemot (or Witan), whose composition and powers are still a matter of debate, used to be called together to advise the English kings. With the Norman Conquest in 1066 this body disappeared; but William the Conqueror, while concentrating greater power in his own hands than the Saxon kings had known, summoned a *Magnum Concilium* (Great Council) at regular intervals. At

such times, according to the Anglo-Saxon Chronicle, the greatest men in England were with him: "archbishops, bishops and abbots, earls, thegns, and knights." In the intervals between these meetings, a smaller *Curia Regis* (King's Court or "Little Council") remained to advise the King. The practical work of administration was carried on by the Royal Household.

In contrast to the kings of France, whose authority continued to be challenged and limited by powerful nobles who commanded the allegiance of their tenants, William instituted a system of land tenure according to which the first loyalty of every landholder was to the King and not to a local lord. From an early period, therefore, England attained a degree of political centralization far greater than that on the continent. Yet institutions of local government which had originated before the Conquest continued in existence and provided a limited experience in self-government.

It was William's great-grandson, Henry II (1154-1189), whose reign (which followed a period of anarchy) marked the next great advance in English government. Traveling or itinerant justices now fostered the growth of a law "common" to all the land,<sup>1</sup> while trial by jury replaced the earlier methods of trial by ordeal, battle, or compurgation.

#### *Early Limitations of Royal Authority*

If it was due to the strength of Henry II that an orderly and firm governmental authority was established, it was due to the weakness of his son John (1199-1216) that this authority was limited by Magna Charta (the Great Charter),

<sup>1</sup> For a fuller discussion of the common law, see below, pp. 175-76.

the most famous if not the most effective of those restraints upon political authority which are the essence of constitutionalism. Subsequent tradition has transformed into a charter of English liberty what was primarily a guarantee of specific rights of English barons. Yet certain articles, like the famous provision (Article 39) that no free man might be arrested, imprisoned, dispossessed, outlawed or exiled, or harassed in any other way save by the lawful judgment of his peers or the law of the land, could be cited in future years and given a far broader interpretation and application than its sponsors imagined. The document was not democratic in any modern sense, but it reiterated the principle that the King was not unlimited in power and that abuses of power might be resisted; and the legend subsequently attached to it made it a powerful instrument for liberty.

### *The Growing Specialization of Function*

With the passage of time, there was a tendency for business that was judicial or administrative in character, and which therefore required the continuous attention of some governmental body, to fall to the lot of the *Curia Regis* (the Little Council); and as the amount of business increased and the members of the *Curia Regis* became more highly skilled and specialized, such subdivisions as the Courts of Exchequer, Common Pleas, King's Bench, and Chancery, which were the forerunners of the modern court system split off from it. More purely administrative work remained with the Royal Household and such institutions as the Exchequer and the Secretary of State which developed out of it, and with the main core of the *Curia Regis*.

Somewhat later the *Curia Regis* itself developed into what was known as the Permanent Council; and it was within this body that, in the fifteenth century, the Privy Council, a smaller and more efficient body, grew up and eventually assumed the powers of its larger and more unwieldy parent, much as the Cabinet (in the seventeenth and eighteenth centuries) grew up within the Privy Council and came to act in its name.<sup>2</sup>

<sup>2</sup> Today it is sometimes suggested that this process is being repeated as an Inner Cabinet grows up within the Cabinet. See below, p. 114.

### *The Rise of Parliament*

The *Magnum Concilium* (Great Council) of the kings of England was a meeting of the great nobles and ecclesiastics of the kingdom, somewhat resembling the House of Lords of modern times. From time to time, however, and generally for the purpose of winning popular consent to the levying of new taxes, kings would summon representatives of the lesser gentry, who were too numerous to attend in person. In 1213, King John, in need of money, commanded the presence of four "discreet knights" from each county, and in 1254 (at a time when the Great Council was coming to be known as Parliament) Henry III, also in need of money, summoned two knights from each county. In 1265, Simon de Montfort, who had led the barons in a temporarily successful revolt against the King, summoned a Parliament to which were invited not only two knights from each shire but two burgesses from each of those boroughs (towns) known to be friendly to his party. And although, with the re-establishment of King Henry's power, this practice was temporarily abandoned, the famous Model Parliament of Henry's son, Edward I, in 1295, included burgesses as well as knights, clergy, and barons.

At this time the privilege of attending Parliament was commonly regarded as a mixed blessing. Far from demanding the privilege as a right, people looked upon it with understandable apprehension, both because the journey to Parliament was expensive, uncomfortable, time-consuming, and, upon occasion, dangerous, and because those summoned to Parliament were summoned to increase their own taxes. Thus attendance at Parliament was compulsory, rather than the result of any demand for the right of representation, and classes like the lesser gentry and the burgesses were ordered to attend when they became prosperous enough to attract the attention of a government ever eager for new sources of revenue.

For a time Parliament met in three groups or estates: one for the nobility, one for the clergy, and one for the commoners. The lesser clergy, however, eventually withdrew; the higher clergy (who were themselves great nobles) met with the nobility; and the lesser barons or knights (who often were the younger sons of the nobil-

ity) sat with the commons, thereby helping to prevent the growth of a sharp political cleavage between the nobles and the middle classes. By the end of the fourteenth century, the system of two chambers, one for the lords and one for the commons, had taken shape. Moreover, early in the fifteenth century it came to be understood that proposals for grants of money should originate in the House of Commons and then win the approval of the Lords, an arrangement which, by centering the power of the purse in the House of Commons, enormously enhanced its authority.

During this period Parliament also acquired certain legislative powers. Earlier, individual commoners had had the right to present petitions to the King asking for redress of grievances, and eventually the Commons presented such petitions as a body. Successive kings discovered that it was easier to persuade Parliament to grant new taxes if the petitions were granted first, and laws began to be enacted by the King at the request of the Commons and with the assent of the Lords. However, not until early in the fifteenth century did the laws always coincide with the terms of the petitions. Henry V (1413-1422) agreed that nothing should be enacted which changed the substance of the petitions; and during the reign of his successor, Henry VI (1422-1461), the formula came into use which is still followed: statutes are made "by the King's most excellent majesty by and with the consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same."

### *Tudor Absolutism*

Much of the fifteenth century was occupied by those struggles between rival factions of the nobility which are known as the Wars of the Roses. The ultimate victor in this conflict, Henry VII (1485-1509), was the first of the Tudor dynasty, a line of energetic monarchs who gave the country the firm and orderly government it wanted and so enhanced the authority of the King that the period is often referred to as that of "Tudor absolutism." Partly because of the effectiveness of the great nobles in killing one another off, Henry succeeded in concentrat-

ing great power in his own hands. Parliament during his reign was the servant of the King rather than an independent force, and the real center of governmental activity was the Privy Council, a group of advisers chosen by the King and drawn from the middle classes rather than the great nobility. Under the Tudors, too, greater authority in local government was given to country gentlemen (rather than nobles) who served without pay as Justices of the Peace and acquired both the political experience and the sense of public service which have been outstanding virtues of the British upper classes.

Although the power of Parliament declined under Henry VII, the struggle between Henry VIII (1509-1547) and the Roman Catholic Church increased Parliament's prestige, not because it failed to act as a docile instrument of the King but because the King made so much use of it as an ally in the struggle. Thus the "Reformation Parliament," which sat from 1529 to 1536, acquired a political experience and importance and enjoyed a degree of freedom of speech which set powerful precedents for later times. It was this Parliament which passed the legislation completing the breach with the Church of Rome and making the King the supreme head of the Church of England.

During the dozen years which intervened between the governments of Henry VIII and his daughter Elizabeth (1558-1603), Edward VI (1547-1553), a Protestant, and Mary (1553-1558), an ardent Catholic, reigned over a country which was torn by religious controversy and plagued by bad government. Elizabeth, however, re-established the Anglican Church of her father, with a ritual resembling that of the Catholic Church but with a creed which was more definitely Protestant than that of the church of Henry VIII; and during her reign England came to identify itself with Protestantism in opposition to the Catholicism of its bitter enemy, Spain.

Elizabeth's government, like that of her father and grandfather, was firm and orderly, and it commanded the overwhelming support of public opinion. By this time members of the House of Commons, far from considering their duties a burden, had come to take pride in their growing political influence and to act with greater independence. Toward the end of Elizabeth's

reign, the members (particularly those who were Puritans, i.e., members of the extreme Protestant wing of the Church of England) increasingly indulged in criticism; it was evident, although the devotion of the Parliament to the Queen was very great, that a tactless successor might find this body a source of serious opposition to his will.

### *The Limitation of Royal Authority*

Elizabeth's successor, James I (1603-1625), the first of the Stuart kings, was sufficiently tactless to precipitate precisely such opposition. Already King of Scotland, James I united in his person the rulership of the entire British island, although it was not until 1707 that the Act of Union formally united the two countries.<sup>3</sup>

In his native Scotland, James had already had sufficient experience with the Calvinistic (Presbyterian) form of Protestantism, which was far too democratic for his tastes; and the rapid growth of Puritanism in England aroused his displeasure and persecution for similar reasons. His firm belief in the divine right of kings conflicted sharply with Parliament's conception of its own authority. From 1611 to 1621, with the exception of a few weeks in 1614, James actually ruled without any Parliament at all; and when finally he was obliged to summon a new Parliament, its vigorous criticism led him quickly to dissolve it.

Far from ending with James's death, royal quarrels with Parliament grew more bitter. Charles I (1625-1649) dissolved his first two Parliaments in rapid succession and resorted to highly unpopular forced loans in the absence of financial grants from that body. When Parliament was again summoned in 1628, a Petition of Right (which ranks with Magna Charta as a charter of British freedom) was drawn up, asserting the ancient liberties of the kingdom and denouncing royal abuses of power, and Charles was forced to accept this document.

Eventually, however, quarrels between the King and Parliament's Puritan members resulted in a Civil War which lasted from 1642 to 1649. In this struggle, which reflected a social

as well as a political and religious cleavage, the majority of the peers, the Anglicans, and the Catholics supported the King; the majority of the townspeople and the Puritans supported Parliament; and the landlords and country gentry divided themselves between the two parties. In 1649 the defeated King was executed, and in 1653 Oliver Cromwell, who as leader of the victorious Parliamentary armies already held effective power, assumed the title of Lord Protector under England's only written constitution, the "Instrument of Government." Yet Cromwell, like his royal predecessor, repeatedly disagreed with and dissolved Parliament, and his death in 1658 led quickly to the restoration of the monarchy with Charles II (1660-1685) as King. The Instrument of Government vanished, the Anglican Church was re-established, and Nonconformists suffered serious restrictions upon their religious and civil rights.

In appearance Charles accepted the supremacy of Parliament; and although he disagreed with it from time to time and secretly longed for absolute power, controversy was never pushed to the point of endangering the throne. Charles's brother and successor, James II (1685-1688), was less discreet. Even before his accession large numbers of "Petitioners" asked that he be barred from the throne because of his adherence to Catholicism, while "Abhorrrers" of the petition upheld his right to the succession. Once he had become King, however, James's efforts to restore the Catholic Church enraged both Nonconformists and Anglicans (including many of the Abhorrrers), and his quarrels with Parliament precipitated the "Glorious Revolution" of 1688 which drove him from the throne and transferred the crown to his daughter Mary and her husband William, Prince of Orange.

At the time of their accession, the quarrel between King and Parliament was finally settled. Parliament, in the famous Bill of Rights of 1689, listed the practices which had caused trouble during the previous half century and forbade their revival in clear and unequivocal language. The legislative authority of Parliament was assured, the King was forbidden to levy any tax or impost without parliamentary consent, the regular convening of Parliament was guaranteed, and certain individual liberties were specifically confirmed. A few years later, in 1701,

<sup>3</sup> Wales had been added to the Crown by Edward I in 1284, and the fact that the Tudor dynasty was Welsh in origin later helped to reconcile Wales to this union.



the authority of Parliament over the Crown was established beyond all doubt when the Act of Settlement deliberately changed the order of succession to the throne, passing over the Catholic descendants of James II and providing that James's daughter Anne (1702-1714) should be succeeded by the German, but Protestant, House of Hanover.

### *The Rise of the Cabinet*

The reigns of the first two Hanoverian kings, George I (1714-1727) and George II (1727-1760) marked a further, if less dramatic, decline in the royal power as authority passed into the hands of the Cabinet, a small group of leading ministers who advised the King.

It had long been apparent that the Privy Council was too large and unwieldy a body to conduct public business, and smaller groups had already begun to be used for the purpose. Charles II's famous group of intimate advisers, the "Cabal," provided a precedent of sorts for the later development of an inner circle of ministers who consulted with the King and attempted to guide legislation through Parliament. However, so long as the Stuart monarchs remained on the throne, they maintained their right to choose their own ministers and to change them at will. The distinction between the legislature (Parliament) and the executive (the King and the ministers of his choice) was quite plain. But during the reigns of William and Mary and of Anne the distinction became less plain. Both William and Anne continued to choose their Cabinet ministers and to meet with them regularly, but it was obvious that their relations with Parliament were better when the Cabinet had the confidence of Parliament. Anne in particular disliked the idea of choosing her ministers from a single political party, but William experimented with such a ministry, and Anne herself eventually accepted one. Thus began the practice of choosing ministers who shared the same general views—and the views of the majority of the Members of Parliament. There was no change in the law, but the dependence of the ministry upon the King lessened; at the same time its dependence upon Parliament increased.

The first two Georges took a greater interest

in Hanoverian affairs than in British. Far from trying to expand the royal prerogative, they let slip some of the powers which William and Anne had been careful to maintain. And since they had trouble understanding both the English language and English politics, they gave up the practice of presiding over meetings of Cabinet ministers.

From 1721 to 1742, both Cabinet and Parliament accepted the leadership of Sir Robert Walpole, who was First Lord of the Treasury and Chancellor of the Exchequer and who was in fact the first British "Prime Minister," a title which did not come into general use until some time later.<sup>4</sup> When, in 1742, Walpole lost the support of the House of Commons, it was natural for him to resign his office, an act which implied that the survival of a ministry depended not upon the favor of the King but upon the acquiescence of Parliament. By the time George III (1760-1820) succeeded to the throne, the precedent of a strong Cabinet and Parliament and a weak King was well established, although not until the nineteenth century was the operation of Cabinet government clearly understood. George III himself did try, with some success, to recover the lost ground; but growing opposition in Parliament (as indicated by its famous resolution of 1780 that "the influence of the crown has increased, is increasing, and ought to be diminished") and the insanity of the King during the last decades of his reign, prevented the ultimate success of the effort.<sup>5</sup>

### *The Rise of Parties and of Democracy*

The growth of political parties in England was as gradual and unintentional as other changes in the government, but no change was of greater importance. Before the seventeenth century rival groups of nobles might contend for power, as in the Wars of the Roses, and there were adherents of different religious principles, but there were no political parties in the modern sense. The division in the Civil War, however, between the aristocratic, Anglican

<sup>4</sup> It was not until 1878, in the Treaty of Berlin, that this title was used in a public document. No statute mentioned it until 1917.

<sup>5</sup> For a discussion of the King's powers today, see pp. 125-27.



"Cavaliers" who fought for King Charles and the middle-class, Puritan "Roundheads" who supported Parliament reflected a difference in religious and political principles as well as economic interest which prepared the way for future party alignments. With the Restoration of Charles II there appeared a clearer difference between the greater part of the land-owning gentry (the "Tory" squires), who upheld the authority of the King and the Anglican Church, and the alliance of powerful "Whig" nobles with the Nonconformists and the mercantile classes—a difference paralleling that between Abhorrrers and Petitioners (see p. 21). When James II opened his attack upon the Anglican Church, however, the Tories were torn between loyalty to the King and loyalty to the Church; some joined the Whigs in inviting William and Mary to take power, while others remained unreconciled to the change. Thus the Glorious Revolution, for a time, had the curious effect of making Whigs rather than Tories the chief support of the monarch, although William attempted, not always successfully, to draw his advisers from both parties. And for the first time the warring factions became political parties in the sense that each recognized the right of the other to exist and accepted the transfer of power from one group to the other without any attempt to destroy the opposing party by force.

With the accession of the Hanoverian monarchs, the Whigs (whose support of the Hanoverians against the Stuarts was wholehearted) entered upon almost fifty years of uninterrupted power. Later, George III, by the liberal use of patronage, succeeded in building a new Tory party of "King's Friends" in opposition to the Whig oligarchs. But their disastrous conduct of the war with the American colonies strengthened the Whig opposition, and in 1782 the King was obliged to accept a Whig ministry. The Tories came into power again in 1783, under the leadership of William Pitt the younger; but the King never recovered his personal authority.

#### REFORM OF THE SUFFRAGE

The issues raised by the outbreak of the French Revolution in 1789 caused a split in the Whig Party, many of whose members, under the leadership of Edmund Burke, aligned themselves with the Tories; and with a short inter-

ruption in 1806, Tories remained in control of the government from 1783 to 1830. During this period there arose a demand for further reform of the government. The Glorious Revolution had clearly established the principle of the supremacy of the House of Commons, but this House was a far from democratic body. Property qualifications fixed in the fifteenth century still determined the vote in many areas, while the failure to redistribute seats in accordance with movements of population resulted in the growth of "rotten boroughs" (which had lost most of their population but retained their original representation) and "pocket boroughs" (which were under the control of landed proprietors who frequently sold the right to represent the borough in Parliament). Thus, in the Scottish constituency of Bute, only one of the fourteen thousand inhabitants had the right to vote and was therefore in a position to elect himself unanimously to Parliament. The constituency of Old Sarum had no residents at all, and Dunwich had sunk beneath the sea, but each was still represented in Parliament. In contrast, large towns grew up which had no representation at all.<sup>6</sup> Elections were notoriously corrupt, and the price of seats in Parliament was openly quoted. Many seats were controlled by members of the House of Lords, who appointed members to speak and vote in accordance with their instructions; and George III demonstrated that the King himself could play at the game.

For a long time there had been a demand for reform. John Locke<sup>7</sup> at the time of the Glorious Revolution had denounced the abuses of the system of representation; and John Wilkes, in 1776, had moved in the House of Commons "that leave be given to bring in a bill for a just and equal Representation of the People of England in Parliament." And as the Industrial Revolution created a large class of well-to-do businessmen who were eager for a greater share of political power, agitation for reform increased. Yet the traditional ruling class clung tenaciously to power, resistance was extremely bitter, and it was not until a Whig government came into

<sup>6</sup> When Americans, in the years before their Revolution, complained of "taxation without representation," it was pointed out that English communities too were taxed without having any parliamentary representation.

<sup>7</sup> For a discussion of Locke's influence, see below, p. 35.

office, late in 1830, that popular agitation met with a favorable parliamentary response. Even then it was necessary to dissolve the House of Commons and hold a new election before a safe majority could be found for the bill reforming Parliament. The House of Lords continued its resistance until the King threatened to appoint enough new peers to assure a majority for the bill.

The Great Reform Act of 1832 marks the beginning of modern British democracy. It did not increase the electorate drastically (about half a million men, mostly drawn from the upper half of the middle class, gained the right to vote), but it did away with the worst inequalities of the old system, eliminating most of the rotten and pocket boroughs, consolidating or lowering the representation of the smaller communities, and giving new or increased representation to the large ones. What was most important, however, was the establishment of the constitutional principle that representation must approximate population.

In 1867 the electorate was almost doubled by extending the vote to about a million new voters, especially in the towns, and there was a further redistribution of seats. In 1884 the vote was extended in rural areas as well. In 1918 the vote was finally given to all male citizens of twenty-one and over and, with important qualifications, to women of thirty and over. In 1928 the suffrage was extended to women on the same basis as men. Thus the British achieved universal adult suffrage.

#### CHANGE IN PARTY CHARACTER

So drastic an increase in the number of voters inevitably had far-reaching effects upon the political system. During the first part of the nineteenth century both parties had drawn their support from the same well-to-do classes, and it was not at all unusual for leaders of the two parties to be intimately related through family and social ties. Even in policy, lines tended to be blurred. The Whigs were somewhat more willing to accept electoral reform and were opposed to high tariffs; but many Tories were in agreement with them, and in 1867 they "dished the Whigs" by themselves introducing the legislation which extended the right to vote. In fact, the Tories (who were, at this time, identi-

fied with the land-owning rather than the manufacturing element) were somewhat more willing than the Whigs to support measures of social reform like the protection of women and children in industry.

As the suffrage was extended under popular pressure, like that of the Chartist Movement, the Liberal Party (as the Whigs came to be known) grew to include several not-altogether-compatible elements: the old and conservative Whig aristocracy; the new and wealthy industrialists, who were opposed to high tariffs and any government interference with industry; the Nonconformist middle classes; and the majority of the workers who had the right to vote. The Tories, who now took the name Conservatives, also won the support of some of the urban middle and working classes, but the backbone of their strength was in the rural areas where the local squire and the Anglican parson exercised decisive political influence.

In the second half of the nineteenth century, and particularly in the years following the extension of suffrage in 1867, two exceptionally able and popular leaders, Disraeli and Gladstone, came to symbolize in their own persons the spirit of the Conservative and Liberal parties. With the increase in voters, party organization became more important for success in elections. And as voters increasingly chose their parliamentary representatives in terms of party leaders and principles, the electorate began to replace Parliament as the real source of Cabinet powers.

The extension of the suffrage also encouraged a change in the class character of the parties. The old nobility, almost without exception, now passed over from the Liberals to the Conservatives, while the uneasy combination of workers and industrialists in the Liberal Party encouraged, at the opening of the twentieth century, the formation of a Labor Party whose primary appeal was to the working classes. By the end of World War I, the Labor Party exceeded the Liberal Party in size; and although, during the 1920's, there were times when none of the three parties could win a parliamentary majority, the Liberals increasingly lost members at both ends as the wealthy industrialists and merchants, no longer so distrustful of a high tariff and increasingly fearful of socialism, joined forces with the

Conservatives, and as the working class came to regard the Labor Party as the most effective advocate of its interests.<sup>8</sup>

#### REFORM OF THE HOUSE OF LORDS

The successive extensions of the franchise also brought a fundamental change in the position of the House of Lords. So long as the House of Commons remained unreformed, the influence of the Lords was very great, and it was not unusual for the majority of the members of the Cabinet, including the Prime Minister himself, to be members of that chamber. But as the right to vote was widened, the prestige of the House of Commons as the spokesman of the electorate grew. Leadership in the Cabinet came to rest with men who could win elections and who were likely to be members of the House of Commons. Moreover, the opposition of the Lords to many of the political, social, and economic reforms accepted by the House of Commons led to increasing irritation; and when, in 1909, a struggle broke out over the Lords' financial powers, the way was prepared for the Parliament Act of 1911, which enabled the House of Commons, by complying with fairly rigorous conditions, to pass even nonfinancial legislation over the Lords' "veto."<sup>9</sup>

Thus, through a series of changes which were often inconspicuous and occasionally accidental, the British government developed from a highly centralized monarchy into one of the most advanced democracies in the world.

## II. THE BRITISH CONSTITUTION

### *Form and Fact*

The gradualness of this evolution, and the British habit of retaining traditional forms despite radical changes in the position of power, produced two characteristics of the British Constitution which confuse most Americans: there is no single place in which the Constitution as a whole is clearly and definitely written down, and those provisions of the Constitution which do exist in writing often differ markedly from

actual constitutional practice. A foreigner who reads the American Constitution will be misled about certain political practices (he will find, for example, no mention of judicial review, the Cabinet, or political parties, and the electoral college will seem much more important than in fact it is), but in general he will find a not too inaccurate outline of the structure of the American government. In Great Britain, however, the form and the fact of the Constitution sometimes seem to have very little to do with each other. Walter Bagehot could write, for example, in the introduction to the 1872 edition of his classic book, *The English Constitution*, that Queen Victoria possessed the constitutional power to:

. . . disband the army . . . ; she could dismiss all the officers, from the General Commanding-in-Chief downwards; she could dismiss all the sailors too; she could sell off all our ships of war and all our naval stores; she could make a peace by the sacrifice of Cornwall, and begin a war for the conquest of Brittany. She could make every citizen in the United Kingdom, male or female, a peer; she could make every parish in the United Kingdom a "university"; she could dismiss most of the civil servants; she could pardon all offenders.

Yet any ruler who used his constitutional powers in this way, contrary to the advice of his Prime Minister and Cabinet, would find the entire country denouncing him for the unconstitutionality of his action. Nor is the confusion lessened by the fact that the written sections of the Constitution provide neither for a Prime Minister nor for a Cabinet. The fact is that, unlike the American, the British Constitution is not a definable body of fundamental and mostly written rules. Rather it is "a blend of formal law, precedent, and tradition," as a parliamentarian has said, and can be fully understood only through an examination of the institutions and procedures which will be described in the following chapters.

### *Constitutional Sources*

#### GREAT DOCUMENTS

Nonetheless, it is important to understand the diversity of the sources from which the Constitution is drawn. There are, in the first place,

<sup>8</sup> For a discussion of the present composition and policies of these parties, see below, pp. 45-58.

<sup>9</sup> For consideration of further curtailment of the powers of the House of Lords, see below, pp. 106-08.

certain *great charters, petitions, and statutes* like Magna Charta, the Petition of Right, the Bill of Rights, the Act of Settlement, the Reform Act of 1832, and the Parliament Act of 1911. Most of these were acts passed by Parliament, but a document like Magna Charta is considered to be part of the Constitution simply because it represents a great landmark in national history, much as though Americans considered the Declaration of Independence and the Emancipation Proclamation to be part of their Constitution—as, indeed, they are part of the living tradition of American government.

The distinguishing thing about most of these charters and statutes is that they were the product of a constitutional crisis and that they contain the terms of settlement of that crisis. In the life of any great country certain issues arise which, like the controversy over slavery in the United States, cut to the foundations of the political system. Once the issue has been definitely settled, either by the victory of one party or by a definitive compromise, the British consider that settlement part of their Constitution. In spirit this practice is not unlike the addition of the Thirteenth, Fourteenth, and Fifteenth Amendments to the American Constitution at the end of the Civil War. But in Great Britain, since there is no written constitution to amend, the settlement generally takes the form of a law which looks just like any other law passed by Parliament. What makes it a part of the Constitution is not its appearance but the context of constitutional struggle within which it originated, as in the case of the great Reform Act of 1832 or the Parliament Act of 1911.

#### IMPORTANT STATUTES

In addition to these more spectacular charters and statutes, there are certain *other statutes* which are significant, not because they marked the conclusion of a great constitutional struggle, but because they dealt with subjects of such intrinsic importance as automatically to place them in a category above ordinary law. Into this category, for example, fall the laws extending the right to vote which were passed between 1867 and 1944 (when the local franchise was placed on the same basis as the national).

None of these laws aroused the excitement which characterized the Reform Act of 1832,

but each of them, in its turn, was so important a step in the development of political democracy that any attempt to repeal them would now be regarded as an unthinkable attack upon the basic constitutional principle of universal suffrage. Yet where, in America, the granting of the suffrage to women was embodied in a formal amendment to the Constitution, all of these reforms, in Great Britain, took the form of ordinary laws.

#### THE CONVENTIONS OF THE BRITISH CONSTITUTION

Third, and most difficult for Americans to understand, is that part of the British Constitution which depends upon *custom* or *convention*. These conventions ordinarily are not embodied in written laws, and thus are not enforceable in the Courts. Moreover, since they constantly grow and change and adapt themselves to new circumstances, it is very difficult to say at any moment exactly what they are. As our study of the growth of Parliament and the Cabinet has shown, such conventions usually originate in practices which are followed for the sake of convenience. But if such practices are followed for a long enough time, the person who departs from them will be denounced for the "unconstitutionality" of his action. Thus it was still possible in the late seventeenth century to say that British government was characterized by a separation of powers between Parliament and the King and his ministers. But even as eighteenth century observers (like the French political philosopher, Montesquieu, and some of the framers of the American Constitution) continued to speak of the separation of powers as an essential part of the British Constitution, the system was changing. Today one of the outstanding principles of the British Constitution is the fusion of powers, according to which the King must always take the advice of his Cabinet and the Cabinet must have the support of the House of Commons. Members of the Cabinet customarily are the leaders of the majority party in Parliament; and the leaders of the legislature and the executive are therefore the same men. For the King to defy the convention of the Constitution and to exercise, contrary to the will of the Cabinet and therefore of the House of Commons, the powers which technically belong

to the executive would be regarded as a revolutionary attack upon the Constitution. Yet no law has deprived him of this authority. Rather, the gradual development of a practice based partly upon convenience and partly upon accident has led to a convention which is as powerful and effective as the most carefully planned amendment to a written constitution.

Yet it is easy to misunderstand the nature of the fusion of powers; even Bagehot believed it meant that the Cabinet is merely a committee of the working majority of the House of Commons. On the contrary, although there is no formal separation of executive and legislative powers in the British parliamentary system which corresponds to the somewhat artificial division in the American system, there is a very real distinction between the Cabinet and Parliament. In fact, the key to the British system of government is the continuously maintained balance between the Cabinet's executive and legislative initiative and the consideration of legislation and ultimate control by Parliament. The Cabinet, or "Government," makes appointments, summons Parliament, initiates and organizes the legislative program, decides on dissolutions, all without consulting Parliament. In so doing, it uses the power of the Crown (which it represents), a power vast in extent and still not wholly defined in scope. Through this power, and the strength resulting from a well-disciplined party, the Cabinet provides positive and effective direction of affairs. The function of Parliament is not to weaken or supersede this leadership but to make sure that there is full consideration of all the issues introduced by the Government before it gives them its consent.

The most fundamental distinction between the American and British systems of government is not, in fact, between the so-called separation and fusion of powers. It is between the American concept that legal authority vests ultimately in the citizens who confer it temporarily on the President and on Congress, and the British concept that legal authority inheres in the Crown (whose authority is now exercised by the Cabinet) and in Parliament. Thus the British Cabinet and Parliament are two co-equal if interjoined elements, each possessing and exercising an authority which is independent and

not, as in the United States, merely delegated by the voters.

But even here the distinction should not be pushed too far. Though *legal authority* rests in the Cabinet (using the authority of the Crown) and in Parliament, *political power* resides in the British people, as it does in the American people, through their right to vote for the representatives and government of their choice. Perhaps the greatest practical importance of the distinction regarding the ultimate seat of legal authority in the two countries, therefore, is in the attitude of the elected representatives: in the United States, members of Congress are likely to look on themselves as delegates from their constituencies, and only the President, in this sense, represents the whole country; whereas in Great Britain, members of Parliament and, in particular, the ministers accept a primary loyalty to the House of Commons as an organ which must act on behalf of the country as a whole.

Because British, like American, government is party government, that is, carried on by whatever organized group has received majority support at the polls, it has been felt increasingly, however, that the election returns should not only designate which party shall assume the responsibilities of governing but should also control, both negatively and positively, the program which it undertakes while in office. This view has given rise to what is called the "*mandate convention*," which assumes that the Government should institute radical changes only if the electorate has passed on them at a general election. This view has been a matter of considerable controversy, particularly after the Labor Party's victory at the polls in 1945, and many English authorities feel that it has not yet earned the title of a "convention." It is noticeable, however, that the Conservative majority in the House of Lords in the years immediately following 1945 approved bills instituting such measures as nationalization, with which it was out of sympathy, on the ground that Labor had received "a mandate" from the electorate (see p. 106). Moreover, when the Labor Government decided in 1947 to reduce the length of time that the House of Lords could hold up legislation (p. 106), its action was bitterly attacked as a violation of the mandate convention, since this measure altered the balance of power between

the Lords and Commons and had not been submitted to the electorate. Further controversy raged over the Labor Government's decision to make effective the nationalization of steel in 1950 despite its slim majority of seats in Parliament and its failure to win an absolute majority of votes in the country in the election of February 1950; and the Conservatives, on assuming office in October 1951, announced that they would rescind the nationalization, though they, in turn, could hardly claim a clear-cut mandate for so doing. Thus the mandate convention is clearly not yet finally established. The very frequency of the references to it, however, indicates a growing tendency in the British Constitution towards establishing voters' control over governmental programs.

It is apparent that the very gradualness with which conventions take hold makes it difficult at times to know whether a given practice is part of the British Constitution or not. Often there is speculation to the effect that a certain procedure will become part of the Constitution if, in the course of the next ten or fifteen years, the precedent is not broken. Thus, as we have seen, the Prime Minister during the greater part of the nineteenth century was at least as likely to be a member of the House of Lords as of the House of Commons. However, as the House of Commons gained prestige with the extension of the right to vote and with the curtailment of the power of the House of Lords, it became increasingly inconvenient to have the chief spokesman of the Cabinet in the House of Lords when the Cabinet's fate was being decided in the House of Commons. From 1902 on, Prime Ministers regularly were chosen from the House of Commons, and people wondered whether this practice would become part of the Constitution. The decisive precedent was established in 1923 when the King, in appointing a new Prime Minister, passed over the most prominent Conservative, Lord Curzon, and appointed Mr. Stanley Baldwin.<sup>10</sup>

Later it was suggested that the same development was taking place in connection with the

important post of Foreign Secretary. Here, too, there was a disadvantage in having a subordinate official explain and defend foreign policy in the House of Commons, and the precedent seemed to be building up that only a member of the House of Commons might hold the post. In this case, the expectation proved premature, for Prime Minister Chamberlain appointed Lord Halifax to this position. Yet it is perfectly possible that fifteen or twenty years from now the appointment of a peer as Foreign Secretary will seem a violation of constitutional practice.

Such developments really should not be too difficult for Americans to understand. In the United States few constitutional practices are more important than the action of the Supreme Court in holding acts of Congress unconstitutional when they conflict with the Court's interpretation of the Constitution. Yet one may read the American Constitution through without finding any statement granting this power to the Court. Nonetheless, it has by now become so established a part of the American form of government that no one would think of challenging it. The practice has become part of the living constitution if not of the written one. Similarly, it was once maintained that the custom of having no President serve for more than two terms had become an unbreakable precedent and, in 1940, when President Roosevelt ran for a third term, his opponent, Wendell Willkie, actually charged that he was acting unconstitutionally—thereby using the word in its British rather than its American sense. In this instance, the twenty-second amendment to the American Constitution limiting the President to two terms indicates that the convention was more firmly rooted than at first it seemed to be.

If the conventions of the Constitution are as changeable as these examples may suggest, the problem naturally arises of how the conventions are enforced if anyone violates them. To this question there are two answers. In the first place, the changes in the conventions of the Constitution are so gradual and, frequently, so imperceptible that any sudden departure would be a profound shock to public opinion. If, for example, a Cabinet were defeated in an important vote in the House of Commons and yet refused either to resign or to call a new election, or if a King suddenly refused to follow the ad-

<sup>10</sup> The fact that Mr. Baldwin was more acceptable to the rank and file of his party than Lord Curzon, and also the lack of representation of the Labor Party, the official opposition, in the House of Lords may well have been the decisive reasons for the action but popular belief in the official interpretation soundly established the precedent.



vice of his responsible ministers and began to exercise the powers which Bagehot attributed to Queen Victoria, there would be a popular reaction at least as strong as that which greeted President Roosevelt's plan to modify the composition of the Supreme Court. So obvious is this consequence, and so pervasive is the loyalty to constitutional practices, that probably it would never enter the heads of the statesmen themselves to indulge in any violation. In this sense, the protection of the Constitution is in the hearts and minds of the people.

There are, however, more practical sanctions. The conventions of the Constitution usually exist because they serve a real purpose. To violate them is often to make the government itself unworkable. If, for example, a Cabinet refused to resign after meeting defeat in the House of Commons, it is almost certain that the House would refuse to pass any legislation recommended by the Cabinet or to provide any money for governmental purposes. Thus the government would be brought to a complete standstill. Similarly, if the King began to act independently of his Cabinet, the Cabinet itself would resign and the House of Commons would undoubtedly refuse to give its support to any new Cabinet, if, indeed, any members could be found to join such a Cabinet. For the British government works only if the Cabinet and the House of Commons are in accord and if the King follows the advice of the Cabinet. To depart from these rules in any important respect is to break down the whole machinery of government.

Furthermore, if a convention of the Constitution should be violated, there would be an immediate demand to have this convention enacted into law. For example, it was long assumed that, by failure to use its power for a long period of time, the House of Lords had lost its power to reject any financial measure passed by the House of Commons. In 1909, however, the House of Lords rejected the famous Lloyd George budget which, contrary to the economic interests of many of the peers, placed heavy taxes on land. The Liberal Party, which controlled the House of Commons at this time, denounced this action as a breach of the Constitution and succeeded, after a bitter struggle, in winning the passage of the Parliament Act of 1911, which made it impossible for the Lords to delay money

bills for more than one month. In this way the written law restored a constitutional convention which had been broken.

#### JUDICIAL DECISIONS

A fourth important source of constitutional principles is to be found in decisions of the courts. To some extent judges, in interpreting the provisions of the charters and statutes which are part of the Constitution, have defined and developed its meaning much as the Supreme Court has clarified and expanded the provisions of the American Constitution. Even more important, however, is the fact that some of the most important principles of the British Constitution are principles of the common law—that is, principles not established by any law passed by Parliament or ordained by the King but, rather, principles established in the courts through the use of decisions in individual cases as precedents for decisions in later cases. The first decisions often were based on common customs or usages, and as these decisions “broadened down from precedent to precedent” there grew up a body of principles of general application which stand as a bulwark of British freedom and an essential part of the Constitution. In particular, the civil liberties which in America are embodied in the Bill of Rights stem, in Great Britain, largely from the good sense of the authorities in not enforcing the laws too strictly and from the contribution of the common law.

Today, according to the common law, the British subject has full freedom to say or write anything he pleases so long as it is not slanderous, libelous, seditious, obscene, or blasphemous; and public meetings may be disbanded only if the assembly becomes riotous or seems likely to commit a breach of the peace or a crime of violence. For the most part, such limitations do not constitute a serious interference with political liberty. “Blasphemy” and “obscenity” have little application to politics, and considerable latitude is given to strong political language before “libel” or “slander” can be invoked. Slander, however, has at times received a very broad and vague application, and the leeway which the police enjoy in determining what is a “breach of the peace” occasionally has aroused considerable concern. However, two of the out-

standing protections of the subject against any such abuse of authority, the right to trial by jury and the writ of *habeas corpus* (which prevents a person from being held in prison without trial), also developed in the courts of common law.

### Constitutional Principles

Of the many important principles of the Constitution, three or four deserve special emphasis.

The first of these principles is that *Fusion of Powers* which has been considered above. According to this principle there can never, in Great Britain, be the kind of prolonged disagreement between the executive and the legislature which occurs so frequently in the United States. In America, it is not at all unusual for the President to veto legislation passed by Congress or for Congress to refuse to pass legislation recommended by the President. There are even times when the President belongs to one party and the majority of Congressmen to the other.

In Great Britain, such disagreements are impossible. It may be debated whether in practice it is Parliament which controls the Prime Minister and Cabinet or whether it is the Prime Minister and Cabinet which control Parliament; but no one contests the principle that they must work in agreement. If ever the House of Commons should vote against an important measure sponsored by the Cabinet or if ever it should pass a bill opposed by the Cabinet, one of two things would happen. Either the Cabinet would resign immediately, or it would have the King dissolve Parliament and call a new election. If those who oppose the Cabinet won the election, the Cabinet might either resign at once or wait to resign until it received an adverse vote of confidence in Parliament; if its supporters triumphed it would continue in office, upheld by the new and friendly majority in the House of Commons. But in either case the executive and the legislature would not, as in the United States, continue to follow conflicting policies.

A second, and closely related, principle is the *Supremacy of Parliament*. Supreme legal power in Great Britain is exercised by Parliament (the House of Commons, the House of Lords, and the King), which according to the old saying can do everything but make a woman a man

and a man a woman. In contrast to American practice, there is no judicial review in the sense of testing the constitutional validity of laws, and there is no complicated process of constitutional amendment. Even the veto power of the titular executive has apparently lapsed through non-use, and the King will accept any measure passed by the two houses of Parliament. No court would dare to hold an act of Parliament unconstitutional; and, theoretically, Parliament itself can change the Constitution at any time simply by passing an ordinary law. Thus, it is sometimes pointed out that Parliament could, quite legally, extend its own term of office forever, depose the King (who would have to sign the warrant), turn England into a republic, make Buddhism the established religion, or restrict the right to vote to women of seventy and over.

Yet merely to say this is to point to the absurdity of the idea. Parliamentary supremacy is exercised in the spirit of responsibility, and responsibility is not only to the majority in Parliament. There are profound psychological checks and voluntary self-restraints which come into operation when substantial changes in the Constitution are under consideration. Even if the mandate "convention" (p. 27) is not strictly adhered to, there are many devices like all-party conferences (see p. 107) or Royal Commissions (see p. 94) which are used to secure agreement prior to legislative action. Thus though Parliament is legally supreme, parliamentary responsible government is a more accurate name for the way in which the system works.

A third important principle is the distinction between the King as a person and the Crown as an institution. Regardless of the personal qualities of the individual, the institution is the object of tremendous reverence, both because of its antiquity and because of the ceremony and pageantry of which it is the focus. Whatever changes may take place behind the governmental façade, the Crown continues, for the present generation as for its remote ancestors, to symbolize the stability and continuity of British institutions and to command the loyalty and devotion of the British people.

According to the Constitution, the powers of the Crown (as suggested by the quotation from Bagehot on p. 25) are very great. Every action



of the government is carried out in its name. It is the Crown which makes appointments and assents to laws, which makes treaties and commands the armed forces. The not wholly defined prerogative powers inhering in the Crown can be used during emergencies. Moreover, as noted, legally the Ministers derive their authority from the Crown, and in this sense are responsible to it. But to say that the Crown has these powers and position is very different from saying that the King (or Queen) can make use of them independently. On the contrary, the ruler may exercise these powers only on the advice of his responsible ministers, who, of course, are responsible politically to Parliament and the electorate. Except under the most unusual circumstances, the King may take no independent action of political importance (p. 125). As Edward VIII discovered, he may not even marry the woman of his choice against the advice of his Prime Minister. It is commonly said that he would have to sign his own death warrant if his Cabinet asked him to do so. In short, the powers of the Crown are always used as the Cabinet, supported by Parliament, wants them to be used.

Finally, one of the fundamental principles of the Constitution is the Rule of Law according to which the government and its agents, as well as individual citizens, are subject to laws which are definite and known in advance and which can be modified only by act of Parliament. Thus, no citizen may be punished unless he has been found guilty of violating the law in a trial before a regular court whose procedure safeguards him against arbitrary conviction. Similarly the courts will protect the citizen against government officials who interfere with his rights contrary to law. Thus both government officials and private citizens are equally subject to one body of law and one system of courts.

As in the United States, the Courts are the primary protectors in Great Britain of what we call civil liberties: freedom of speech, freedom of association, freedom of assembly, and freedom from arrest and imprisonment "except," as Magna Charta stated it, "by judgment of his peers or by the law of the land." Historically, the common law Courts have been vigilant to stop the Government from exercising arbitrary power. As noted, the Courts devised the writ

of *habeas corpus* centuries before Parliament passed the Habeas Corpus Act in 1679. They continue to ensure that executive authorities do not exceed the powers entrusted to them, or deviate from the strict procedures under which they should act. On the tense issue of seditious conspiracy, the Courts, through a long series of decisions, have established a balance between order and liberty: no one may use violence to change the laws or the Constitution; but short of such action, almost any method of agitation may be used in the effort to change laws, policies, or institutions. Thus the King's Peace is preserved but the popular will has ample channels for expression.

Civil liberties might be infringed, however, by statute or by administrative regulations which are still inside the law. Here the Home Secretary, and Parliament itself, are vigilant in scrutinizing laws and delegated legislation (see p. 136) and local bylaws, to guard against such encroachments. In the words of a recent Home Secretary, laws should be passed "to promote liberty and not to restrict liberty." Such a view once led to the disallowance of a London bylaw forbidding roller-skating on the pavement!

But most important of all, perhaps, is the attitude of the ordinary citizens, and of the police, towards civil liberties. Anyone who has listened to the explosive utterances of orators at Hyde Park Corner, and watched their orderly audiences, realizes the value of such safety valves. And the story of the London bobby listening to a particularly inflammatory speech and finally drawling, "All those who are going to burn down Buckingham Palace make a line on this side," is not untypical. In such an atmosphere, civil liberties are not in danger, despite any absence of written guarantee.

### **The Value of the Constitution**

Admirable as are the principles of the British Constitution, however, any American will be troubled by a number of questions which are variations on a single theme: in a Constitution which is, in part, so vague and which can be changed so easily, either through the imperceptible development of custom or by the passage of an ordinary act of Parliament, how can anyone be sure that constitutional principles

really will be maintained in times of special stress? In the United States the Constitution can be formally amended only by a long and complicated process, and Americans occasionally question the usefulness of the much heralded rule of law if Parliament can change that law at any time to suit its whim.

As already pointed out, however, Parliament does not change the law lightly and casually. There is, in fact, a very real restraint upon its authority, although a different kind of restraint from that to which Americans are accustomed. The first defense of the Constitution lies in the force of tradition and public opinion rather than in a court or a difficult process of amendment. The Members of Parliament, like all Englishmen, have been brought up in such reverence of the Constitution that it would not occur to the overwhelming majority of them to make a direct attack upon it. If, to assume the fantastic, they did, the revulsion of public opinion would be so great as to destroy them utterly. It is true that the same forces act in defense of the American Constitution, but in the United States there is more of an inclination to leave this defense to the Supreme Court. Yet there is something to be said for a system which makes it clear that the maintenance of the Constitution is a responsibility of the people themselves.

In any case, it would be hard to prove that liberty is any less secure in Great Britain than in the United States. If the American Supreme Court has an excellent record for the protection of civil liberties, there have been times when, by its own confession, it has lapsed. Moreover, it takes a long time and a good deal of money to carry a case to the Supreme Court, and by the time a decision is rendered it may be too late to remedy the damage. Humble people, who are the most likely to be oppressed, may not even be able to raise the necessary money.

One advantage of a written constitution, it is sometimes said, is the greater ease with which the ordinary citizen may detect an infraction of its provisions. The lines are more distinctly drawn; it is not so hard to tell when someone steps over the boundary of constitutional prohibition; and there is a tangible statement around which public opinion can rally. Yet in fact many issues touching civil rights

seem far from clear until after the judges have ruled on them.

Another claim is as debatable. The difficult process of amendment, in the case of the American Constitution, may give public opinion a longer warning about a contemplated change, a greater opportunity to think matters through, and even a margin of time in which to change its mind and recover from transitory hysteria. But the very difficulty and complexity of the process constitute an invitation to circumvention. It is so hard to get an extremely controversial amendment adopted that constitutional flexibility—particularly in the extension of the government's economic powers—has come to depend on the willingness of the Supreme Court to render a broad interpretation of constitutional wording rather than upon a deliberate decision of the electorate to change these words. Here, too, there is something to be said for a method of change which is easy and flexible enough so that amendments may be made in a straightforward manner in time to meet the essential needs of a changing society.

In any event, the ultimate defense of any constitution, whether written or unwritten, whether equipped with elaborate defense mechanisms or with none at all, must lie in the devotion of its people. In this spirit of loyalty to their Constitution, it would be rash to say that Britons, in any measure, yield to Americans.

### III. BRITISH POLITICAL IDEAS

To understand the attitudes of a people as well as the political programs of particular groups, it is necessary to know the political ideas which have claimed their allegiance, for nowhere is it more true than in politics that ideas are both the forerunners and the outcome of action. In the course of the past one hundred years, three great currents of ideas have competed for the political allegiance of British citizens. In the middle of the nineteenth century the principal contenders were Conservatism and Liberalism. Today they are Conservatism and Socialism. But although Liberalism has declined as an independent force, its successful rivals have absorbed a significant portion of its content. As a result, it is impossible to understand contem-

porary politics in Great Britain without some familiarity with all three currents of thought.

### **British Conservatism**

In Great Britain, as in every other country, the natural tendency of conservatives is to like the institutions and political principles which they have inherited from the past and to regard any far-reaching innovation with suspicion if not distaste. Established institutions, they think, rest upon the safest of all foundations: that of experience. To desert them is to abandon oneself to the uncharted seas of theorizing and speculation. Change may be necessary at certain times, but change is not a good thing in itself and it should be carried out in such a way as to preserve as many as possible of the inherited institutions.

There are certain differences between British and American conservatives, however, which result from differences in the institutions which they have inherited. Where American conservatives are devoted to a constitutional system which places strong restraints upon the government, British Conservatives trace their descent from the Tory Party, which stood for the authority of the Crown against parliamentary limitation; and although British Conservatives have long since come to accept the supremacy of Parliament, the fact that for so many generations the upper classes controlled Parliament encouraged a greater willingness to uphold the authority of the state than seems natural to American conservatives.

### **THE INFLUENCE OF BURKE**

Somewhat paradoxically, the man who has had the greatest influence upon Conservative thought, Edmund Burke (1729-1797), considered himself a Whig. He had defended the rights of the American colonists at the time of the Revolution, and he was devoted to the principles of the Glorious Revolution of 1688. To Burke, however, these revolutions had been fought in defense of the ancient constitution and the inherited rights of Englishmen. The French Revolution of 1789 seemed to him to have an entirely different character. Its leaders frankly proclaimed their intention of destroying or remodeling such ancient institutions as the mon-

archy, the aristocracy, and the established church; and they proclaimed their belief in the power of enlightened and reasonable human beings to create new institutions and to remedy ancient injustices. But to Burke the ancient institutions represented the accumulated wisdom of the ages, and human reason seemed but a weak and fallible guide in comparison with the lessons of tradition and experience. If new circumstances required changes in the inherited constitution, Burke wanted them to be made within the spirit of that constitution and with as little modification as possible of its inherited form.

Burke was appalled, therefore, when certain Englishmen (like Dr. Price, an eminent Nonconformist clergyman) welcomed the French Revolution and proclaimed the right of men not only to establish governments of their own choosing but to choose their rulers and remove them for misconduct. These ideas (which, of course, were also present in the American Declaration of Independence) seemed to Burke to have no basis in English constitutional history. He denied the American belief that all men are created equal and are divinely endowed with certain natural rights. Human equality he called a "monstrous fiction" which made men discontented with their natural state in life. According to Burke, men possess only those rights which they have inherited from their ancestors: thus Englishmen have certain rights which Frenchmen have never possessed.

Burke also attacked the idea that a nation rests upon the voluntary agreement of its citizens. A nation, he said, is not a "partnership in pepper or coffee, tobacco or calico." It is a single organic entity, never young, never old, never middle-aged, in which one generation succeeds another in "a condition of unchangeable constancy. Far from being an association of people existing at any one time, it is a union of earlier generations with those of the present and with those yet to be born. Any sharp or sudden change is a threat to its life. New circumstances may require some modifications of the ancient constitution, but any changes should be made gradually and naturally. Thus the unplanned and almost imperceptible way in which the British Constitution has adapted itself to new conditions embodies the Conservative ideal of continuity, gradualism,

distrust of reforms based upon "theory," and confidence in those changes which come about naturally and, as it were, unintentionally.

#### NINETEENTH CENTURY CONSERVATISM

It was fortunate for the future of British Conservatism that Burke's teachings left the door open to change, for the nineteenth century transformed almost every aspect of British life. The rapid industrialization of the country and the growth of great cities brought insistent demands not only for the extension of the suffrage but for government intervention in the economic sphere to protect women and children in industry, to provide safe and healthful working conditions in factory and mine, to regulate wages and hours of work, and to furnish protection against the vicissitudes of life in an industrialized society. During this period the middle classes and, later, the working classes were fighting for the right to vote; and if the Conservatives had refused to allow any change or concession, they might have precipitated civil war and perhaps their own destruction.

However, it has been typical of Conservative leaders at their best, as typified by Benjamin Disraeli (later Earl of Beaconsfield, 1804-1881), that they have known when to yield to the demands of a democratic and industrial age. By making concessions before the accumulated pressure and irritation were too great, they have not only retained a strong popular following but they have also been able to make reforms in their own way, preserving much of the traditional order which would have been swept away if it had been left to their opponents to introduce the changes; and they have often been able to determine the direction and the extent of the changes.

This adaptability to new circumstances has been easier for British than American conservatives because, traditionally, the former have had no objection in principle to state activity and have rejected the doctrine of the right of the individual against the state and any belief in inalienable natural rights. Moreover, the most important reforms were directed against the new leaders of industry, who, until late in the nineteenth century, tended to be Liberal in politics in opposition to the Conservative landowners. Today, the Conservative spokesman, Quintin

Hogg, regards certain principles which are sacrosanct to American free-enterprise conservatives as the core of the "liberal heresy."

#### IMPERIALISM

In the late nineteenth century Conservatives became identified with another doctrine: imperialism. Earlier in the century many Englishmen, disillusioned by the loss of the American colonies and preoccupied with the industrial transformation at home, took little interest in the nation's overseas possessions. Disraeli himself could say in 1852 that "these wretched colonies will all be independent too in a few years and are a millstone around our necks." The empire continued to grow, but it grew, according to the famous phrase, "in a fit of absence of mind."

During the last third of the century, however, there was a remarkable change in the attitude both of statesmen and of the people as a whole. It was Disraeli himself who made Queen Victoria Empress of India and, with far-sighted shrewdness, acquired for Britain the predominant control of the new Suez Canal, which so greatly shortened the route to India, Australia, and Hong Kong. As the economic competition of other countries developed, the possession of empire markets gained in significance. Moreover the idea of empire began to exercise an almost magical fascination upon the imagination of large masses of the people. In an era when the popular press was making its appearance and cultivating mass circulation, lurid stories of the adventures and conquests of empire builders in distant lands were discovered to have an enormous appeal for men and women who were leading monotonous lives in bleak industrial cities. Similarly, the writings of Rudyard Kipling enjoyed immense popularity, while there developed a widespread conviction that the acquisition of an empire proved the superiority of the British as a governing race and could even be taken as a special sign of divine favor. Thus Joseph Chamberlain, who abandoned the Liberal Party and became a great Conservative leader, proclaimed his belief that "the British race is the greatest of governing races that the world has ever seen," while another great Conservative, Lord Curzon, wrote that "the British Empire is under Providence

the greatest instrument for good that the world has seen."

At its best, the doctrine of imperialism, far from preaching the exploitation of subject peoples, reflected a sense of responsibility for their development and welfare. Its close association with missionary activity should not be overlooked. But many imperialists thought of national profit or power before they thought of colonial welfare; and even at their best imperialists enjoyed a feeling of superiority which was not easily reconciled with a spirit of democracy.

At first there were many Liberal as well as Conservative imperialists, but with the passage of time (and partly because of the influence of the Nonconformist conscience) Liberals increasingly denounced the acquisition of territory by conquest and demanded greater rights for colonial peoples—a stand in which they were joined by the new Labor Party. The maintenance of empire tended, therefore, to become a doctrine identified with the Conservatives, and it is significant that Conservative Party conferences still hear, and applaud, repeated tributes to their party as the "great Imperial Party," the defender of a powerful empire.

### British Liberalism

#### THE INFLUENCE OF LOCKE

To the average American, the most familiar ideas in British politics are those associated with some of the early Whig thinkers. In particular the writings of John Locke (1632-1704), who wrote in defense of the Glorious Revolution of 1688, influenced not only the leaders of the American Revolution but found their way into the popular political vocabulary of the time. Thus much of the American Declaration of Independence is simply a restatement of Locke's principles.

Locke taught that all men were naturally equal; that they possessed a natural right to life, liberty, and property; that governments were voluntary associations formed to protect these rights; and that governments should be so organized and limited as to prevent an abuse of their powers. To that end Locke advocated a separation of powers between the executive and the legislative branches of government, and he

denied the right of a government to injure the lives or property of its subjects, to tax or take property without consent, to delegate to other agencies powers granted it by the people or to rule by arbitrary decree instead of by laws duly enacted by Parliament. If a government violated these principles, Locke believed that the people might recall their grant of power and set up a new government.

Much of the divergence between political thinking in Great Britain and the United States today can be understood in terms of the degree of rejection or acceptance of Locke's ideas. In the United States the success of a government founded upon these principles has seemed sufficient proof of their validity; but in Great Britain, in the late eighteenth century, Locke's belief in natural rights and the right of revolution came to be identified with the excesses of the French Revolution and the Reign of Terror and were regarded with a horror not unlike that aroused in the twentieth century by the principles of the Bolshevik Revolution in Russia. British Liberals (and, today, many British Conservatives) continued to believe in limited government, but Liberal reforms would have been long in coming to Great Britain if they had had no other intellectual foundation than a belief in natural rights.

#### THE UTILITARIANS

The man who, more than any other, provided a fresh basis for Liberal political action, Jeremy Bentham (1748-1832), was himself a Tory in origin. He had even less use than Burke for the doctrine of natural rights as expounded by Locke and the American and French Revolutionists. "Natural rights," he maintained, "is simple nonsense; natural and imprescriptible rights, nonsense upon stilts." Those who talked of them were "bawling upon paper," and the Declaration of Independence, to Bentham, was "a hodge-podge of confusion and absurdity."

According to Bentham, the aim of government was not to protect men's "rights" but to promote the greatest happiness of the greatest number. Every governmental policy was to be judged by its "utility," that is, by its tendency to increase human pleasure and to decrease human pain. Bentham worked out elaborate tables by which such utility could be judged, and the



policy which resulted in the greatest happiness was the policy to be followed.

There was nothing intrinsically democratic in this theory, except its emphasis on equality: if a benevolent despot could make his people happiest, Bentham was quite prepared to further his efforts. But the indifference of political rulers to Bentham's proposals convinced him that men were fundamentally selfish and that no despot would ever put his people's interest before his own. Only a government of the people would look out for the interests of the people.

The result was that Bentham, for reasons very different from those of Locke, came to some of the same conclusions. He did not think that men were equal because of a law of nature, but he did think that each man's happiness was as important as that of any other. In calculating the amount of happiness resulting from any policy, each individual was to count for one and no one for more than one. It was the number of those who were happy, not their rank, which counted.

In sharp contrast with Burke, Bentham had no more use for a blind belief in the value of inherited institutions than for a blind belief in natural rights. That an institution was ancient, he thought, was hardly to its credit. The accumulated wisdom of the ages was largely accumulated poppycock. Bentham did not talk of the supreme power of human reason, as the French philosophers were prone to do, but he subjected the inherited institutions of his time to a devastating rational analysis, and he advocated sweeping changes in such institutions as the electoral system, the law, the penal system, and the poor law.

Bentham's influence upon the course of British Liberalism was prodigious. In place of the discredited school of natural rights, he offered a new program of practical political reforms which made a strong appeal to the common sense of the British people and which, it is sometimes said, helped to save Great Britain from the kind of violent revolution which afflicted Continental countries. His influence, however, also helped to separate the main current of British Liberalism from the main current of American democratic thought. Where the United States continued to believe in the existence of individual rights above the power of government and in the necessity of separating and bal-

ancing powers in order to control the government, Bentham saw no need to check government so long as it was promoting the happiness of the majority of the people. His "greatest happiness" principle provided a strong basis for popular government and majority rule but not for minority rights. And where many American liberals long clung to the idea that that government was best which governed least, Bentham and his followers (the Utilitarians or Philosophical Radicals) logically were bound to uphold governmental action aimed at the elimination of human misery. Thus acceptance of a socialist program was far easier for a Benthamite Liberal than for an American liberal reared in the tradition of individual rights and a distrust of state power.

#### ECONOMIC LIBERALISM

Bentham himself, however, did not foresee to what extent his ideas could be used to justify governmental action. In economic affairs, paradoxically, he accepted the teaching of Adam Smith (1723-1790), who believed that there was a natural harmony of economic interests and that men, if not interfered with by the government, would unconsciously promote the interests of the community at the same time that they consciously promoted their own.

According to Smith, the community paid its highest rewards to those who provided the services which it most desired; and since each individual wished to earn as much money as possible, he would do exactly those things which the community wished him to do. As a result, the government did not need to, and indeed ought not to, interfere with the economy but should limit itself to national defense, the protection of life and property, and the building of certain public works too costly for private individuals to undertake.

In the early part of the nineteenth century there was no apparent conflict between the ideas of Bentham and Smith. Merchants and industrialists supported the Liberal Party as the agent of laissez faire and free enterprise at the same time that radicals supported it as the advocate of a broader suffrage and other democratic reforms. The advance of the Industrial Revolution and the growing demand for economic reform strained this happy partnership. Factory owners

were bitterly opposed to many of the reforms which other Liberals advocated with enthusiasm as the most effective way of promoting human happiness and eliminating human misery.

#### THE INFLUENCE OF MILL

To some extent this conflict in Liberal ideas was personified in the life of *John Stuart Mill* (1806-1873). Mill's father, James Mill, had been one of Bentham's most able and intimate disciples, and John Stuart Mill himself grew up in the citadel of Benthamite ideas. As a young man, however, he began to question certain of Bentham's teachings. In particular, he placed greater emphasis upon the worth of the individual personality, and he thought the great objective of society to be not the happiness of the individual but his growth and development. Better, he thought, to be Socrates dissatisfied than a satisfied pig. Thus society should aim at the cultivation of those qualities which are peculiarly human and which distinguish men from animals: before all else the power to think well and to think for oneself.

Such a goal naturally led Mill to be suspicious of any state activity which would limit the freedom of the citizen or reduce his self-reliance. At the same time, however, Mill was well aware of the existence of economic abuses which only the state could remedy. In his famous essay *On Liberty* (1859) he tried to draw a distinction between actions of the individual which concerned only himself and with which the state ought not to interfere, and actions of the individual which affected or harmed others and which the state might control or prohibit. Thus the state might intervene to prevent the adulteration of goods or to force employers to provide healthful working conditions.

Mill also came to believe that political reforms of the sort advocated by many Liberals—the extension of the suffrage or the reform of the law or of Parliament—although desirable in themselves would not produce a good society unless accompanied by far-reaching economic reforms. The fundamental problem of society, he wrote in his *Autobiography*, was “to unite the greatest individual liberty of action with a common ownership in the raw material of the globe and an equal participation of all in the benefits of combined labor.” Thus Mill had, in fact, become

a socialist in ideal, although a socialist who believed intensely in individual self-reliance and in freedom of thought and expression, and wished to combine this freedom with social and economic equality. He did not try to say in any detail how this change was to come about, but apparently it was his hope that through education and experience men might come voluntarily to “dig and weave” for their country as well as to fight for it.

Today British Liberalism is still struggling with the problem of how to reconcile individual liberty with social welfare. Many of the merchants and industrialists, who used to provide the party with its financial strength, have gone over to the Conservatives, and Conservative leaders often appeal to the rest of the Liberals to follow that example. Yet it is not unusual today to hear Conservatives using the old Liberal slogans of individual freedom from government control.

Many Liberal voters have also turned to Labor—in some instances not because they approve of socialism in principle but because Labor's concrete program of social reform and international peace appeals to idealistic and pacifist elements within the party. Moreover, as the Liberal Party itself weakened, a vote for Labor often seemed the most effective way of voting against Conservatism and imperialism.

Today the remaining Liberals, more than any other party, concern themselves with the protection of individual liberty. But they combine this devotion to liberty with what they call “a radical programme of practical reform.” Thus it is characteristic of the present attitude of the party that Lord Beveridge, the sponsor of the famous Beveridge Plan for security “from the cradle to the grave” should be one of its conspicuous leaders.

#### British Socialism

Toward the end of the nineteenth century, as we have seen, the issue of economic reform was replacing political reform as the greatest subject of political controversy. To many reformers the obvious way of bringing about change was direct economic action by trade unions and consumers' co-operatives. But there were also those who believed that only political action could

remedy economic and social injustice. Among them some, like H. M. Hyndman and the Social Democratic Federation, were under the influence of Karl Marx<sup>11</sup> and believed that reform would come through class warfare and revolution. Others, like the members of the Independent Labor Party, placed greater emphasis on winning seats in Parliament and local councils and concentrated upon an ethical and democratic appeal which, in the Nonconformist tradition, had great influence upon the British workman.

#### THE FABIANS

The most influential ideas, however, were those of the *Fabian Society*, which was founded in 1884. Unlike Marxian Socialists, the Fabians opposed the doctrine of class warfare and advocated a policy of planned gradualism. As the saying went, they substituted evolution for revolution. Their motto was: "For the right moment you must wait, as Fabius did most patiently when warring against Hannibal, though many censured his delays; but when the time comes you must strike hard, as Fabius did, or your waiting will be in vain, and fruitless."

The membership of the Fabian Society has never exceeded a few thousands, but among its members have been men and women of the greatest ability and influence: George Bernard Shaw, Sidney and Beatrice Webb, H. G. Wells, Graham Wallas, Ramsay MacDonald; and in more recent years, Harold Laski, G. D. H. and Margaret Cole, R. H. Tawney, Leonard Woolf, and Clement Attlee. When the Labor Party came into power in 1945, the Fabian membership included 229 members of Parliament, several Cabinet ministers, and, of course, the Prime Minister himself.

The aim of the Society, as stated in 1896, was "to persuade the English people to make their political constitution thoroughly democratic and so to socialize their industries as to make the livelihood of the people entirely independent of private Capitalism." Its method, in Shaw's words, was to give up "the delightful ease of revolutionary heroics" for the "hard work of practical reform on ordinary parliamentary lines." Distrusting theories and abstractions, the

members devoted themselves to concrete social and institutional problems. "The competitive system," they maintained, "assures the happiness and comfort of the few at the expense of the suffering of the many. . . . Society must be reconstituted in such a manner as to secure the general welfare and happiness." However, this reconstruction of society was to be accomplished by specific and practical reforms which, little by little, would restrict the extent of capitalism and expand the amount of socialism. By raising wages, shortening hours of work, providing security in old age, ill health, and unemployment, and promoting public health and safety, they hoped to destroy or to reduce some of the worst evils of modern industrial society. By taxing inheritance, ground rents, and income from investments, they hoped to reduce the outstanding economic inequalities. And by increasing public ownership, local as well as national, of public utilities like gas, water, electricity, and public transport, they hoped gradually to extend the amount of public ownership, to gain experience in the public management of property, and to prove the efficiency and practicability of such management. What was at first done on a small scale and in individual instances could be expanded eventually into a completely socialized society.

The outstanding achievement of the Fabian Society undoubtedly was its influence on public opinion. The brilliant scholars, writers, and speakers who served it presented the results of their research in a vivid and effective way. Fabian pamphlets and Fabian lectures reached and influenced large numbers of people, especially in the middle classes, who would have been frightened by talk of revolution and bored by theory, but who could be convinced by hard facts and common sense. Particularly in the formative years, before the Labor Party developed its own methods of mass propaganda, it was the Fabian Society which, more than any other group, gave the peculiar cast to British Socialism which still distinguishes it from the more doctrinaire socialism of Lenin and the Communists.

In 1900 some of the trade unions, the Social Democratic Federation, the Independent Labor Party, and the Fabians formed the organization which later became the Labor Party and which

<sup>11</sup> For a fuller discussion of Marx's ideas, see below, pp. 424-26.



is the political arm of British Socialism. As a result, it is characteristic of British Socialism that there is no one orthodox school of thought (as in the case of Russian Communism) but that a variety of ideas and many types of people are found within its ranks. Instead of formulating a rigid ideological program to which all must adhere, there has been a willingness, in a typically British way, to avoid ultimate theoretical issues while agreeing upon and striving for immediate and concrete goals. One consequence of this attitude is the fact that political controversy in Great Britain does not carry with it, as

in some other countries, the danger of civil war. For the acceptance by the Conservatives of the constitutional tradition of parliamentary government and their willingness to endorse a certain amount of state activity and social reform, together with the determination of Labor to introduce its reforms gradually, peacefully, and constitutionally, means that there is a solid basis for co-operation and mutual understanding even when there is sharp disagreement on specific proposals.<sup>12</sup>

<sup>12</sup> For a fuller discussion of this point, see pp. 58-60.

## CHAPTER 3

# British Parties and Elections

### I. THE CHARACTER OF THE BRITISH PARTY SYSTEM

Without an understanding of the British party system, several of the most important aspects of British politics would seem inexplicable. It is largely because of the parties that the King is as weak as he is and the Prime Minister as strong. Because of them, the relation of Cabinet to Parliament has been almost completely reversed in the last eighty years. Even more fundamentally, the functioning of British democracy is dependent upon the work of the parties.

Everyone agrees that in a democracy the government ought in general to do what the people of the country want it to do, and everyone agrees that the government should be led by men whom the people themselves have chosen. But it is easier to say this than to discover a workable way of determining what the people want. The ordinary citizen, acting alone, is comparatively helpless when it comes to drawing up a complete program for his government. He lacks the time, the information, and the practical experience to work out the solution to every political problem for himself, and as an individual he is too unimportant for the government to care very much what he may think. If he wants to influence the policy of his government, his best resort is to join with others who share his general views, to work out a common program with their help, and to run candidates for office who are pledged to put this program into effect.

It is this work of uniting, of organizing, and of agreeing upon candidates which is the characteristic work of political parties in all democracies. For those citizens who want to participate

actively in politics, parties provide the natural channel for action. For the rest of the community, they offer a choice of candidates and policies. The ordinary voter, instead of having to determine his personal attitude on every issue, has the far easier task of deciding which of two or three broad programs suits him best. And the parties which win the favor of the largest number of voters, ideally at least, proceed to carry out the programs which the voters have approved.

But if this is the ideal function of political parties, it must be admitted that it is a function which often is performed unintentionally or badly. Many men in any country join and work for political parties not so much because of their devotion to its public aims as because of their desire for personal power and the material advantages of office. Some parties may even be so organized as to impede rather than encourage political action by the ordinary voter. Thus, in judging the degree of democracy in and the effectiveness of any party system, it is necessary to ask several questions:

1 Does it offer the mass of the people a meaningful and an adequate choice both of policies and of leaders?

2 Does it reflect accurately the desires of the people and of the members of the parties themselves?

3 Is the internal organization of the parties sufficiently democratic to provide a channel for active political participation by the rank and file of the membership, not just in promoting the victory of the party, but in determining its policies and choosing its leadership?

4 Does the party system assist the process of arriving peacefully at a settlement of controversial issues, or does it exacerbate the differences

among the different elements in the community?

Is the party system an effective instrument for carrying out the judgment of the voters once they have made a choice of parties?

### The Two-Party System

In several ways the British party system is very much like the American. In both countries political parties are large popular organizations which try to win public office in order to promote policies in which they believe and also to enjoy the material privileges which go along with office. In both countries, in normal times, there are just two large parties. Thus British and American voters, unlike Russian voters, have a choice between political parties which differ in policy and leadership; but, unlike French or German voters (whose votes are usually scattered among several large parties), British and American voters are so restricted in their choice that an election generally (though, as we have seen recently, not always) results in a clear-cut majority for one large party or the other.

### Centralization

The greatest difference between the British and American party systems is in the degree of centralization. In the United States, power rests with state and local party organizations, and no man can remain a leader of a national party unless he has the support of these organizations. Between elections, in the United States, the national party organizations almost disappear, but the local do not. They are built on patronage, and many of the men who work for them do so because of the jobs and favors which they or their relatives get, or hope to get, from a successful machine. Work for the organization, therefore, is regarded as part of their regular job, and in a well-run organization it goes on continuously. But under such circumstances the workers are not primarily concerned with matters of principle and of national importance. To them and to the local bosses the important thing is not the principles the party holds but the offices it can win.

In Great Britain, in contrast, the leadership of

the party and the money it disburses are the chief concern of the national organization; the parties are highly centralized. And since a national organization is much more likely to be concerned with matters of national importance, the British parties, in normal times, pay greater attention to matters of national policy and principle than do American.

This tendency is encouraged by the smallness of the country and the relative homogeneity of its population. In the United States, as we have seen, parties must appeal to a great variety of clashing sectional, class, and social interests, and they cannot appeal too wholeheartedly to one without antagonizing the rest. The party which stakes everything on the labor vote, for example, will probably lose the farmer and the middle classes. The party which devotes itself to the industrial East will irritate the West and the South. Any precise commitment to one group may mean a loss of votes from others. And since no party can win unless it has the support of a combination of groups and sections, and since the parties are more interested in office than in issues, party platforms and programs tend either to promise everything to everyone, or to evade the issue. Party spokesmen take their stand for the defense of the Constitution, and they protest their concern for the worker and the farmer. But on definite and controversial issues their obscurity can sometimes be monumental. For the first rule of political success is to antagonize no one, and to the party machines it is success that counts.

British parties are no more eager for defeat than are the American, but their job is considerably simpler. Sectionalism is less important in England, and the class pattern is less complex. There are fewer issues to confuse the political picture, and a party can win a majority without combining so many incompatible groups as in the United States. The consequence is a greater simplicity and clarity in party programs, resulting not so much from any special virtue in the British character as from an inherently simpler political situation.

### Discipline

As a natural consequence of their centralization, British parties are more highly disciplined

than American. Americans are accustomed to the idea that politics makes strange bedfellows, and in the past they have accepted without much question the alliance of conservative Southerners with urban radicals in the Democratic Party or the combination of Eastern captains of industry with Western farmers in the Republican. One of the recurrent patterns of American politics is to have Republican and Democratic conservatives in Congress vote together against liberals from both parties. In neither party have the party leaders been able to impose discipline upon their nominal followers.

There was a time, during the first part of the nineteenth century, when British parties also were strange and somewhat loose alliances and when advocates and opponents of free trade, imperialism, and progressive social legislation could be found within the ranks of both the Conservative and Liberal parties. This was a time, however, when comparatively few citizens had the right to vote and when, although the sources of their wealth might be different, voters were drawn from the same well-to-do class. Members of Parliament could be acquainted personally with a large proportion of their electors and hold their seats on the basis of personal rather than party loyalties. There was little need for elaborate political organization.

Even after the reform of 1832, many seats continued, to all intents and purposes, as pocket boroughs of wealthy landholding or commercial families; and although some attempt was made to organize parties on a more popular scale, they continued to be somewhat unstable alliances of Members of Parliament united on personal grounds rather than mass organizations of people bent upon promoting some common policy.

It was the great extension of the right to vote in 1867 and later years which changed all this. Once the mass of the people could participate in elections, it was no longer possible for the parliamentary candidate to know most of the electors personally. He needed an elaborate organization to reach them, and he had to have money to pay for it. But he had no patronage of his own at his disposal, and unless he was a very wealthy man in his own right, he inevitably turned to the national party for help. Thus, in

the years after 1867, both of the large parties were obliged to build up organizations, and by the time of the Conservative electoral victory of 1874 it was clear that political success largely depended upon the appeal of the party program and the effectiveness of the party organization.

The building of effective party organizations had a far-reaching if unintentional consequence. Once the candidate for Parliament became dependent for his success not upon his own efforts but upon the work and money of the organization, his personal independence was seriously restricted. He could not vote against the party's leaders on important issues and expect their organization to support him in the next election. Yet he could not win the election, in most instances, without such support. The result was that the ordinary Member of Parliament could not, and cannot, vote against the leaders of his party with the casualness which characterizes much Congressional cross-voting in the United States. The member of Congress is dependent on a local party organization, and that organization may disagree with the national leaders or be indifferent to certain national issues. But in Great Britain only the man with exceptional personal appeal and extensive financial resources can face the prospect of having the national organization of his own party opposed to him. It is significant that in the election of 1945 only seven men won election to Parliament from ordinary constituencies without the benefit of party label, and of these only three were completely free of party ties; still more striking, in 1950, for the first time in a generation, no Independents were elected to Parliament. In 1951, only three Independents—all of them representing Irish factions—were elected.

The simplicity and discipline of the British system is an object of admiration and even of envy to many Americans. Yet a similar degree of discipline would scarcely be practical or desirable in the United States. In Great Britain, with simpler economic divisions and a smaller area, it is possible to have a large measure of discipline without misrepresenting grossly the country as a whole. But in the United States, two centralized and highly disciplined parties could never do justice to the great diversity of elements and interests in the population. If the American parties lack cohesion and uniformity, it is because

the American people themselves lack these qualities; and if the consequence is a certain ineffectiveness in government, it is a price which must be paid if all important political interests are to be fairly represented.

#### IMPORTANCE OF THE LEADER

Probably no contrast is more striking, however, than the relatively greater authority enjoyed by the party leader in Great Britain. It was quickly discovered when the vote was extended in 1867 and 1884 that issues had to be dramatized if they were to rouse the interest and fit the intelligence of the masses. And the essential element in drama is personality. Men who could never have followed the complexities and intricacies of Liberal and Conservative policy could understand a conflict between two leaders like Gladstone and Disraeli. Just as a Roosevelt in the United States could typify an attitude far better than any Democratic platform, so Gladstone and Disraeli could be made to humanize abstract issues and appeal to loyalties which even the most cogent statement of principle could not arouse on a mass scale. As a result, a man no sooner becomes leader of his party today than every device of publicity is used to make him appear a noble and inspiring leader, if possible, but in any case a likable and trustworthy one.

The power of the leader is augmented by the nature of the British electoral system, for in Great Britain it is impossible for the ordinary citizen to cast his vote directly for the Prime Minister. The Prime Minister is only one of more than six hundred members of the House of Commons, and only those voters who happen to live in his constituency see his name on the ballot. In all other constituencies, the only way of voting for a prime ministerial candidate is to vote for the local parliamentary candidate of the party of which he is the leader. In 1951 for example, those who wanted Mr. Churchill to be Prime Minister had to vote for the local Conservative candidate for Parliament whatever they might think of his individual ability or personality, for only if a majority of the members elected to the House of Commons were Conservatives could Mr. Churchill hold this position. In the United States it is quite possible to vote for a Democratic presidential candidate and a Republican congressional candidate on

the same ballot, and a leader of one party may be President even though the other party has a majority of the seats in Congress. But in Great Britain, with different rules, the successful candidate for Parliament knows that it was not his own personality which attracted the voters but that of his party's leader, and that if ever he fails to follow that leader, he may very well lose his seat.

#### RESTRICTIONS ON THE MEMBER OF PARLIAMENT

To the extent, then, that election to Parliament is dependent upon the support of a party machine, the man who acts independently of it is lost. To the extent that a candidate is supported because of his party's program (an important factor in British elections where the parties generally take more strongly defined stands (see p. 59) than do American parties), any departure from that program is fatal. And to the extent that a candidate's election results from the popularity of his party's leader, any important difference from that leader is ruination. The personality of the candidate, although it always counts for something in an election, is decreasingly important under such a system. What is important is the character of his party's program, the popularity of his party's leader, and the expectation that, on all important points, he will vote in support of them.

This is a situation which would appear intolerable to the average member of the American Congress. He likes to think of himself as a free man, capable of making up his mind on each issue as it arises and of voting as he thinks right, regardless of his party leader or even of his party platform. To him the restrictions on the British member would seem to destroy an element of personal freedom which is essential to democracy.

Many Members of Parliament would agree with this analysis. But some of them would undoubtedly point out that the freedom of the member of Congress is sometimes purchased at the price of political ineffectiveness and irresponsibility for his party. For a party which cannot control its representatives in the legislature is in no position to make promises to the voters. Moreover, if a party cannot carry out its promises, it is very difficult for the voter to make

an intelligent and effective choice. In Great Britain the voter knows that if the Labor Party is successful in an election, it will have the power to carry out its program; and the same thing would be true of a Conservative victory. But in the United States, because of Congressional cross-voting, the election of a Republican Congress is no guarantee that the advice of a Republican President will be followed or even that the Republican platform will be carried out.

Thus the party systems of Great Britain and the United States are based upon different conceptions of what is most important in a representative democracy. To the British voter the important thing is the program and leadership of the party rather than the independence, personality, and ability of the local candidate. To the British voter it would seem a real defiance of the popular will for a candidate, elected as the representative of a party, to refuse to support an important item in that party's program. For the voters, in choosing him, have really chosen to support that program, and any departure from it is to make the election meaningless. The closer the two parties come in numerical strength, the greater the tendency to stress party discipline.

But to the American voter the essence of democracy is not for a representative to vote according to the dictates of party leaders but to vote on each issue as he thinks the voters in his own district would want him to vote or as his conscience and judgment direct him to vote. Thus the American voter, presumably, is choosing a man whose general attitude and judgment he trusts. If he dislikes the record of his Congressman, he will vote against him in the next election. But if he votes against him it will be because he dislikes the Congressman's record and not because the Congressman fails at times to support his party's leaders. President Roosevelt's inability in 1938 to secure the defeat of Democratic Congressmen who had opposed his policies is indicative of the dislike of American voters for "dictation" to their representatives even on the part of a very popular party leader.

#### CLASS CHARACTER

Finally, the division of parties in Great Britain has a different foundation from that in the United States. In recent years, it is true, there

has been a tendency for the more prosperous classes to vote Republican and for the less prosperous together with organized labor to vote Democratic; yet there are many conservatives, especially in the South, who vote Democratic, and there are a number of labor leaders, like John L. Lewis, who have voted Republican. Neither party has any official connection with a trade union, and each party includes important elements from all income classes.

The class basis of British political parties is much clearer. The Conservatives attempt to win votes from all classes, and both major parties appeal to the middle class of "black-coated" workers; but the Labor Party, by its very title, makes no secret of the fact that it represents the workers of the country and that it intends to weaken the power of the captains of industry and finance whenever it gets the chance. The labor unions, in Great Britain, are officially a part of the Labor Party, and, indeed, they provide it with most of its money and membership. Thus, if it is not always true to say (as is often said in Great Britain), "Tell me a man's income, and I will tell you his party," it is true far more frequently than in the United States. It would be hard to name a British captain of industry who votes for Labor or the head of a great British union who votes Conservative.

Here, too, there is a difference between the British and American ideals of what a democratic party system should be. To British observers it often seems that American parties, appealing as they do to all elements in the population, are almost identical and therefore almost meaningless. It seems to them logical that there should be clear-cut differences between parties, and when they fail to find such differences in the United States, they conclude that the voter has no real choice.

But to many American observers this failing is one of the virtues of the American system. If democracy, they suggest, aims at compromise and the peaceful settlement of differences, then a system in which each party appeals to all the diverse economic and racial and religious elements in the population forces each party to attempt a satisfactory compromise of these interests. There is a real danger to democracy, they would say, in dividing a country into two hostile camps along economic lines which, if they did

not threaten civil war, would disrupt national unity and hamper the making of peaceful agreements. Thus critics of the British system would charge that it encourages a feeling of antagonism and bitterness which is basically incompatible with democratic procedures and even with national unity.

The best way of judging the validity of these accusations is to look at the British party system in action.

## II. HOW THE PARTIES WORK

In Great Britain, as in the United States, there is a good deal of political romanticizing about the way in which the people rise in their majesty every few years and march to the polls to determine which policies and men shall govern them. The implication is that there is an infinite choice of men and policies, but the fact is that the ordinary voter, in the normal constituency, has a real choice between just two men who have already been chosen for him by the Labor and Conservative party organizations. A few minor parties may run candidates, and some candidates may run as independents, but their chances of election in most constituencies are extremely slight. Thus any study of the roots of British democracy must dig behind the apparatus of voting and elections and examine the internal organization of the parties themselves.

### *The Labor Party*

The Labor Party differs from the great American parties in two ways. Like most young parties, it represents a depth of conviction and idealism which the older Democratic and Republican parties rarely arouse. Its members still refer to it as the "Movement" or the "Cause," and if there are signs that this fervor is declining with the increasing size and success of the party, it is still characteristic (and perhaps this explains the continuation of the feeling) that members of the local party organizations are expected to give the party an amount of devoted and unpaid service that is seldom matched within the great American parties. Americans, of course, have at times shown great political devotion, but their devotion has usually been

attached to individual candidates like Bryan or the Roosevelts or Wendell Willkie rather than to a political party as such. Loyalty to the Labor Party, however, transcends any loyalty to its leaders; and service to the party, instead of flourishing for a few weeks during election campaigns, is often a matter of consistent, devoted, dogged effort over a long period of years.

A second characteristic of the party is the fact proclaimed in its title: its appeal, in spite of the important role of intellectuals in its ranks and in spite of its increasing support among the middle classes and even among farmers, is primarily to the urban working classes. No party in the United States could make its appeal to a distinct economic class and hope to win control of the national government. But in Great Britain, if every member of the working class voted for Labor, the party would have a clear majority behind it. Actually, there are many workers who vote for other parties, and the Labor Party cannot afford to ignore other classes. But it is the organized workers who provide the solid core of Labor Party strength.

### PARTY STRUCTURE

The Labor Party's organization is one of the most complicated designed by the mind of man. From the time of its foundation the party has been composed of a number of autonomous organizations which have allied themselves for political purposes, and in allotting each organization its appropriate representation in the general framework and in balancing the different, and sometimes jealous, groups against one another, simplicity and clarity of structure were early casualties.

~~Four types of organization have combined to make the Labor Party: socialist and other societies, composed for the most part of intellectuals and professional men; trade unions; co-operatives; and local and regional organizations of the Labor Party.~~

*Socialist and Other Societies.* In the first group are organizations like the Fabian Society, the Society of Socialist Lawyers, the Socialist Medical Association, the Jewish Socialist Labor Party, and the National Association of Labor Teachers. In numbers these organizations are very small, and the terms of membership in the party now make it impossible for them to develop



programs and policies of their own. In the past, however, as the history of the Fabian Society indicates, they have had a distinguished part in the development of the party's ideas, and today their research facilities and professional services are of great assistance. Moreover, to a considerable extent the Fabian Society continues to train the intellectual elite of the party.

*Trade Unions.* Most of the Labor Party's formal membership is drawn from about eighty trade unions ranging from the Transport and General Workers Union (with an affiliated membership in 1950 of 800,000) to the Engine-men and Firemen's Union (with a membership of 60). In 1951, of the Labor Party's 5,920,172 members, 4,971,911 came from unions.

Not only do the unions furnish the bulk of the membership, but they furnish the bulk of the money. The chief source of the party's income is the affiliation fee which all members are expected to pay. All trade unions affiliated to the Labor Party are supposed to require their members to pay fees to the party unless they take the trouble, as individuals, to "contract out," that is, sign a statement indicating their unwillingness to make such contributions. Two-thirds of the seven and a half million trade unionists in affiliate unions pay the dues.

Some of the unions also have political funds of their own and use this money to sponsor candidates. In the past many of these candidates have been union officials who had grown old in service and who could thus be pensioned off at public expense in the House of Commons, where it could scarcely be said that they contributed to the skill and liveliness of the party's representation. More recently, their candidates have been both younger and more alert politically. The unions choose for their investment those constituencies which are most likely to elect Labor members, and in a year in which only a few Labor candidates are elected, a strong majority may belong to this group; even in a good year, when many doubtful seats are won, the proportion of trade unionists remains substantial. Thus in 1945 the unions sponsored 125 of Labor's 603 candidates and elected 120 of the 393 victors, 35 of these from the miners' union alone. (Even more striking, in a Cabinet of 20, 9 were active trade unionists.) In 1950, 111 out of 140 trade union candidates were elected,

35 per cent of the Parliamentary Labor Party, while all 37 of the miners' union candidates were successful. In 1951, the trade unions sponsored 138 candidates, and 88 were elected, 35 of them from the miners' union.

The trade unions also provide significant help in campaigning. In an upward revision of amounts, it was decided prior to the 1950 election that they could contribute up to 80 per cent of a candidate's expenses. Moreover, in addition to financial contributions, the unions have often helped the party by making available the services of their staffs for organizational, administrative, and clerical work.

*The Co-operatives.* The co-operatives, in contrast to the trade unions, have been somewhat of a disappointment to Labor. About ten million members, who represent nearly two out of three families in Great Britain, belong to societies which engage in co-operative trading and manufacturing, and their support would represent an enormous addition to the party's strength, both in money and in membership. The co-operatives long hesitated to affiliate, however, largely from fear that the Conservatives, if victorious, would pass punitive legislation. But in 1941 they accepted representation on the National Council of Labor (p. 52), and in 1946 the National Co-operative Authority agreed to set up two Joint Committees with the National Executive Committee of the Labor Party, one to consider parliamentary and local government policy, the other political organization and allied problems. Thus co-operation is now closer than ever before.

The co-operatives already had a political party of their own, the Co-operative Party, which, under an agreement arrived at in 1927, consulted with the Labor Party and made local arrangements for running candidates for Parliament who were also Labor Party members and candidates. In 1945, 23 out of 33 of these were successful, and one of them, A. V. Alexander, even became Labor's Minister of Defense. The 34 candidates entered in 1950 and the 38 in 1951 fared less well proportionately. Only 16 of the 1951 candidates were elected. Under the new arrangement, local organizations of the Co-operative Party are eligible to affiliate with local Labor Party organizations, and the national Co-



operative Party advises them (but does not require them) to do so. Candidates to be designated "Co-operative and Labor candidates" will continue to be endorsed by the two parties. However, only one co-operative, the Royal Arsenal Co-operative Society, is directly affiliated with the national Labor Party, the other co-operatives preferring, in national matters, to work through the Joint Committees and the National Council of Labor.

*The Constituency Parties.* If the trade unions provide most of the membership and the money, the Labor Party's local organizations (of which in 1950 there were 661, a small increase over the 656 effective branches in 1948) provide most of the energy and do most of the work. Membership in these organizations is open to anyone who accepts the party's program; but membership is taken very seriously, as is evidenced by the signing of a membership card, and many people who already belong to the party because of membership in trade unions or Socialist societies also join the constituency organizations.

Those who do so are likely to be the most energetic, the most sincere, and the most willing to work, and as a result it is in these local groups that the party militants are to be found. It is they who collect the party's dues, sell and distribute its literature, organize entertainments and bazaars in order to raise money, and do the hard work of electioneering. As a natural consequence, there is some friction between the constituency party members, who do most of the work, and the trade union representatives, who cast most of the votes at party conferences.

This friction is increased by the difference in outlook which sometimes distinguishes the local parties from the unions. Those who give so freely of their energy and devotion are likely to be the discontented and the idealist—that is to say, those who are most eager for a sweeping and uncompromising attack on what seems to them an unjust economic order and who are least likely to be contented with halfway measures. But the unions are inclined to be slow, patient, and immensely loyal to their leaders. They gauge gains in immediately materialistic terms of hours and wages and better working conditions. The party is officially pledged to the achievement of a socialist society, but many

union members are far less concerned with what seems to them a doctrinaire and abstract goal than with small but definite and immediate economic results. Though their leaders presumably have special influence on Labor cabinets, the unions also act like regular pressure groups *vis-a-vis* a Labor, as well as a Conservative, cabinet to gain their particular ends. Indeed, many of the union leaders, secure in their jobs, have developed something of a middle-class outlook. They have what, to all intents and purposes, are white-collar jobs. They enjoy a position of influence and prestige. They are used to the process of bargaining with private employers. And if, in theory, they are opposed to a capitalist system, they are in no hurry to change fundamentally the economic pattern under which they have achieved success.

There are, of course, many exceptions to this generalization. But the complaints over the relative representation of constituency and union elements in party councils often result not just from a feeling of injustice over the disproportionate influence of one group but from an important difference in outlook on party policy. There are also some important differences in attitude within the constituency parties themselves. Many members whose ideas have grown out of a liberal, Christian, and humanitarian tradition are bitter enemies of poverty and social injustice—but their first concern is with the liberty and growth of human beings. Other members, whose thinking has been more or less deeply influenced by Karl Marx, look upon human liberty as something desirable but less important than the destruction of the capitalist system, which to them is the root of all evil. On most issues it is possible for both groups, and for those who stand between them, to work in harmony for the achievement of specific reforms. But there are times when the difference in outlook has considerable importance. Especially in the matter of foreign policy, the first group is likely to feel a deeper sense of kinship with the United States than is the second group, which is often highly critical of what it terms American capitalist imperialism. Neither group, however, has sympathy for the totalitarian dictatorship of the Soviet Union.

Both these groups agree that it is possible to

combine liberty with socialism in Great Britain itself, if not in some other countries. But the first group is insistent that no means be used which are incompatible with complete political and intellectual liberty, while the second group is readier to believe that excessive scrupulousness for the rights of political opponents should not delay the realization of essential reforms. Some members on the Right are closer in their ideals to Liberals or even to progressive Conservatives than they are to Laborites of the Left. Some who are on the extreme left wing are almost closer to the Communist Party than they are to right-wing Laborites. Yet whenever the proposal has been made to admit the Communist Party into the Labor Party, it has been overwhelmingly voted down.

#### THE PARTY MACHINERY

Federal organizations are always complicated, and the Labor Party is no exception. Its most representative organization is a Party Conference which meets every year and which elects an Executive Committee. In addition, the party's representatives in Parliament are grouped in the Parliamentary Labor Party, which elects the Leader of the Party. And finally representatives of both the Executive Committee and the Parliamentary Labor Party unite with representatives of the trade unions and co-operatives in a committee known as the National Council of Labor. Each of these organizations deserves to be described in greater detail.

*The Conference.* Unlike American party conventions, the Labor Party's Conference meets every year whether or not there is an election. Each of the member organizations is represented in proportion to the size of its membership, holding one voting card for every thousand members or fraction thereof. In addition, Labor members of the House of Commons and the House of Lords and endorsed party candidates for Parliament are ex-officio members of the Conference.

Two things are interesting about this system. It makes for a better representation of rank and file party members than is true in America where delegates to political conventions are often hand-picked by local machines. And its emphasis is on serious and vigorous debate rather than on the nomination of candidates

and the more spectacular activities of American conventions. Each affiliated organization (i.e., each union, socialist society, constituency organization, or co-operative) may propose one resolution (and, later, one amendment to a proposed resolution) for discussion. The organizations know, before the Conference is held, which issues will be taken up, and they may discuss them in advance and instruct their delegates; in this way discussion of issues in local meetings may contribute significantly to the political education of the members.

The democratic functioning of the Conference, however, is limited by the fact that the large trade unions usually are in a position to dominate it. Ordinarily two or three of the largest unions cast more votes than all of the constituency parties put together (in 1951 the unions had 4,987,000 votes and the constituency parties 1,147,000), and five or six unions control more than half the votes at the Conference. Yet where each constituency party votes independently of the others, with the result that some of their votes offset others, the big unions, even when they contain large dissenting minorities, cast their votes as though their membership were unanimous. Thus, if a comparatively few unions come to an agreement with one another, as they are likely to do, their votes can control the Conference. Moreover, since the rank and file of the unions' membership take less interest in the party, it is sometimes possible for a few "trade union bosses" to swing great blocks of votes and thus to dominate the Conference.

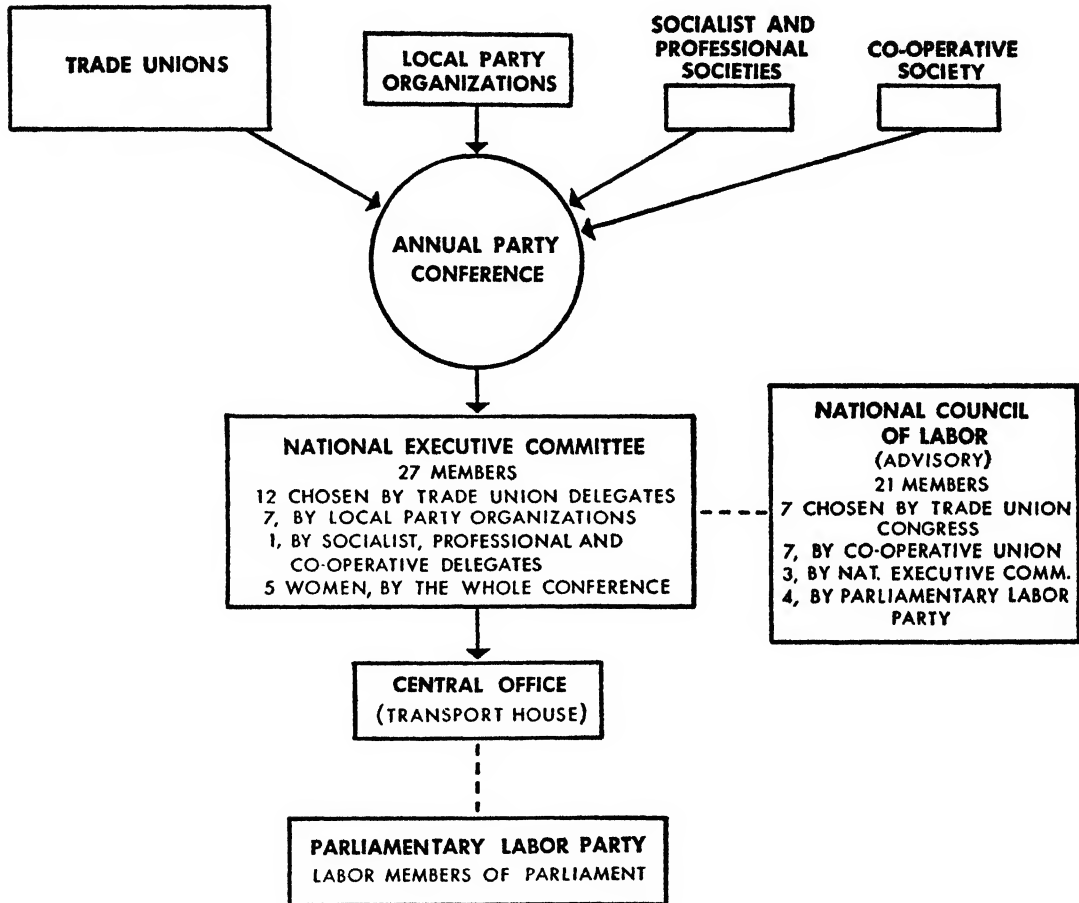
There is also a certain amount of dissatisfaction because of the shortness of time at the delegates' disposal. The Conference meets for only five days (even this long a meeting is a serious drain on the financial resources of the delegates), with the result that not very many subjects can be discussed, and these not very thoroughly. The leaders of the party in Parliament and on the National Executive Committee use much of the Conference's time to expound their policies, and a disproportionately small amount of time is left for discussion on the part of ordinary delegates. Critics of the policies of the party's leaders often find themselves limited to a series of five-minute speeches.

But if the party system is not perfectly democratic, it does mark an advance over the degree

of intra-party democracy in the United States. Any important issue will be aired in the Conference, and the five-day meetings are rarely dull. The leaders of the party are called upon to explain and defend their policies to the rank

feats are limited to minor issues); a large critical vote may be very damaging to the leaders' prestige; and even when there is a safe majority in the Conference, the leaders are bound to ask whether the minority's attitude represents a

### STRUCTURE OF THE LABOR PARTY



and file—in itself an important check—and even when they are sure of winning a large vote of confidence, they are bound to be influenced by the vigor and force of the criticism directed at them. If most of the votes are behind them, some of the most brilliant speeches are likely to be against them and to exert a moral and psychological pressure for which there is no American equivalent. Moreover, the leadership is not always upheld (though in general its de-

point of view which is strong among the independent or nonaffiliated voters whose support is necessary for victory in a national election. For all of these reasons, the leaders of the party treat the Conference and its opinions with the utmost seriousness and make every effort to win its voluntary support.

*The National Executive Committee.* During the period between Conferences, the management of party affairs and the direction of its

Head or Central Office is in the hands of the Executive Committee. But since decisions must be made constantly and since many matters are too complicated, too detailed, or too unpredictable for the Conference to act upon, the Executive inevitably ends not just by carrying out but by making party policy. In form and in theory it is the Conference, as the supreme organ of the party, which gives orders to the Executive, and the Executive is its servant. In practice and in fact, however, it is often the Executive which takes the initiative in determining policy.

In any contest within the Conference, in fact, the Executive is almost certain to win, largely because of the way in which its members are chosen. Of the twenty-seven men and women who compose it, twelve are elected by the trade unions, one each by the socialist, co-operative, and professional organizations, and seven by the local parties; five women members and the Party Treasurer are elected by the Conference. In addition, the leader of the Labor Party in Parliament is a member *ex officio*. Most members of the Executive are re-elected from year to year and thereby acquire considerable authority and experience. They meet once a month for two or three days under a chairman, chosen by seniority, but only for one year. So long as the Executive members act in concert, it is highly improbable that they will be outvoted, for any policy to which the union representatives agree is very likely to carry with it the predominating vote of the large unions.

In addition to its direction of policy, the Executive controls the Central Office (often called "Transport House" from the building in which its headquarters are located) and the machinery of party organization. The Central Office maintains contact with and guides the local organizations, provides speakers, arranges conferences, carries on research, edits party publications and propaganda, trains and examines the "agents" who direct local campaigns, organizes branches of the party in new constituencies, and manages the party's funds. These are, of course, the activities and instruments necessary for political success, and the fact that the Executive Committee has control over them means that any dissident group in the party is at a great disadvantage, for it lacks comparable facilities for establishing contact with potential sympathizers in the party,

for publicizing its case, or financing organizational activities.

The Executive Committee has two additional powers of the greatest importance. No one may be accepted as a Labor candidate for Parliament without its approval (a provision which seriously restricts the activities of potential rebels inside the party); and it has the authority, in carrying out the Constitution, Standing Orders, and Rules of the party, to expel individual members or to disaffiliate organizations, although such action may be challenged at the Party Conference. Disaffiliation means in effect that the local party loses the financial support of the fees of the local branches of the trade unions, and few constituencies can afford such a loss. Another fact curbing both potential rebels and too-independent constituency associations is the practice of the Labor Party (in contrast to that of the Conservatives) of running an official Labor candidate against an unendorsed one.

The Executive has shown considerable tolerance of dissenting views so long as they did not threaten the unity of the party. In general, it takes the position that ordinary members may work within the party to change a policy of which they disapprove, but that once the party or the Executive has made a decision there must be no co-operation with people who have no party affiliation and no public action or propaganda, as distinct from action within the party, in opposition to this policy.

The most famous case since 1945 of application of discipline against a Labor member involved K. Zilliacus, who persistently charged both inside and outside of Parliament that the Government's foreign policy had departed from socialist principles. Nonetheless, he was re-adopted by the constituency association in Gateshead (East) in December 1948 as their parliamentary candidate. In February 1949, the Executive Committee decided to withhold endorsement; the Gateshead association, however, insisted on continuing their support. In April, Zilliacus participated in a reportedly pro-Soviet conference in Paris; thereafter, he was examined again by the election sub-committee of the Executive Committee, and in May the Executive Committee expelled him from the party. The Gateshead association, informed that they must seek a new candidate, put up a spirited but

unsuccessful fight in the annual Conference. Subsequently, the "reformed" Gateshead association selected a candidate endorsed by the Executive Committee. Zilliacus ran as an Independent but lost to the official Labor candidate. In every case, in fact, in which a rebel ran against an official candidate in the 1950 election, the latter was successful.

*The Parliamentary Labor Party.* Members of Parliament who belong to the Labor Party comprise the Parliamentary Labor Party. It is they who elect the Party Leader, and if the party has a majority in Parliament, it is this leader who becomes Prime Minister.

When the Parliamentary Labor Party is in the minority in Parliament, its organization is extremely democratic. Meetings are held at least once a week to discuss party policy, and the decisions of the meetings are binding upon the party's leaders. When the Labor Party is in power, however, the party's leaders (who then make up the Cabinet) enjoy greater independence. The issues to be decided by the Cabinet are too numerous and too complicated for the Parliamentary Party to pass on all of them, and there is a strong feeling that vigorous, effective, and prompt action by the Cabinet should not be hampered by the necessity of winning the prior approval of this group, particularly when the Cabinet possesses information and experience which are not shared by the rank and file of the party's members in Parliament. Moreover, according to British constitutional tradition, the Cabinet is responsible to the House of Commons as a whole, and there would undoubtedly be loud complaints if any group within the House tried to exercise exclusive control over its policy.

Even when the Labor Party is in power, however, special care is taken to consult party members outside the Cabinet. A Liaison Committee composed of some Backbenchers, the chief whip, the Lord President of the Council, and one representative of the Labor Peers, acts as intermediary between the Cabinet and the Party, while the Parliamentary Party as a whole continues to meet at least once every two weeks for policy discussions in which the Prime Minister and Cabinet members frequently participate. Less influential than was expected were the "Groups," set up with such high hopes in 1945

under the chairmanship of Backbenchers and covering almost all fields of governmental activity. Though the Groups had some educative value for their members, the Cabinet did not permit them to share actively in policy making and, in consequence, there was a steady lessening of enthusiasm for this form of organization. More significant, in fact, are the informal groups within the Parliamentary Labor Party, both those representing particular interests, like the Trade Union group and the Miners' group, and those with a special ideological slant, among which the most influential were the "Keep Left" group which flourished during 1946 and 1947 (see p. 222) and the Bevanites. Though both the latter groups openly expressed their opposition to certain aspects of the party's policies their influence, like that of the particular interest groups, was perhaps even greater through gaining compromises from the party's leaders in behind-the-scenes discussions.

Prior to 1945, the Parliamentary Labor Party operated under strict disciplinary rules that required consultation with party officers before taking action in party matters, and permitted the expelling of Members (the technical expression is "to withdraw the whip") on account "of things said or done" in the House. These standing orders were suspended, however, when the party came into power with so large a majority, and were not reinstituted even when the Labor majority became so slim in 1950. This is not to say that no means of discipline remain in the hands of the party's leaders. Appointments to some 70 ministerial posts, senior and junior, are made on the recommendation of the Prime Minister; he approves the selection of private parliamentary secretaries (a position often leading to higher office) and, as in May 1949, when five such secretaries disregarded a three-line Whip (see p. 80) on a Bill concerning Great Britain's relations with Ireland, can ensure their dismissal. Moreover, as already described, severe disciplinary action may be taken by the Executive Committee. But in general, unity is maintained within the Parliamentary Labor Party less by rewards and punishments than by an inner sense of cohesion and devotion to the "Cause." It is significant that even when Backbenchers brought forward an amendment hostile to government policy, they made it clear that they would not

press it to a vote. Over and above any differences of opinion on particular measures (as proved by Aneurin Bevan's continued support of the Government following his resignation from the Cabinet in 1951), is the overriding sense of unity which holds the party together whenever its majority is imperiled.

The exact relationship of the Parliamentary Labor Party and its leaders to the Party Conference and the National Executive Committee became the subject of considerable discussion during the election campaign of 1945 when Conservative leaders charged that a Labor Party Cabinet would have to take orders from the party's Executive, the suggestion being that an obscure and presumably sinister group (which the mass of the voters had never chosen) would thus control the actions of the Cabinet and share its official secrets. Labor's leaders insisted that such a charge represented a misreading of the party's rules. The Executive, they said, had a right to be consulted, but it had no power to challenge the actions or the policy of the Parliamentary Party and its leaders. The Conference gives orders to the Executive Committee, and the Executive Committee makes representations to the leaders of the Parliamentary Party. But the Parliamentary leaders are not bound to follow these recommendations, and a Cabinet composed of members of the Labor Party is responsible only to Parliament. Otherwise, the Cabinet would be responsible to a body outside Parliament which the voters had never elected, and there would be a fundamental change in the British Constitution.

This interpretation of the relationship of party and Cabinet is reinforced by two practical considerations. First, the mass of the party's members are even less well qualified than the Parliamentary Labor Party to direct the details of governmental policy, and, second, Labor's members in Parliament have not been elected simply by the votes of members of the national party. The members of the Parliamentary Labor Party know that if they are to be re-elected they must keep the support of the "marginal" voter who is not represented in the Party Conference. To follow the directions of the Executive or even of the Conference would be, in some cases, to accept the judgment of a militant and quite untypical minority of the voters and perhaps to

lose the next election. Therefore, in the words of one Cabinet member, a Labor Cabinet "will take into full and sympathetic consideration any declaration of the Party Conference, but it will not necessarily be bound by it." Indeed, rather than there being any question about the National Executive Committee controlling the Parliamentary Labor Party, the opposite increasingly seems to be the case: in 1949, for example, sixteen of the twenty-seven members of the National Executive were members of Parliament, and seven of them Cabinet members.

*The National Council of Labor.* The number and complexity of the Labor Party's organizations made it necessary to add a co-ordinating body. This organization, the National Council of Labor, has twenty-one members: seven from the Trades Union Congress, three from the Labor Party Executive, four from the Parliamentary Labor Party, and seven from the Co-operative Union. In its monthly meetings the most important leaders of the party, the unions, and the co-operatives gain some understanding of the needs and attitudes of their different organizations and agree on policies on which they can co-operate. Among the Council's members are the chairmen of all four organizations, and the chairmen of the three non-parliamentary organizations preside over its meetings in turn.

#### INTRA-PARTY DEMOCRACY

Critics often charge that, although the Labor Party's organizational structure is complicated, one fact at least is clear: when one reaches the end of the search for the sources of power and control, one finds them in each case to be in the hands of the trade unions. It is the unions which provide the bulk of the membership and the money; they are in a position to control the annual Conference and, save in the most unusual circumstances, the Party Executive. Thus the party is accused of being a device for serving, not the national interest, but the narrow and materialistic interests of the unionists themselves.

Yet the power of the unions is restrained by several considerations. In the first place, the Parliamentary Party is not under the direct control either of the unions or of the Executive. Many of the party's members in Parliament come from the professional middle classes and,

in any case, realize that they are elected primarily through the efforts of the constituency parties. Even more important is a certain psychological restraint. Even if the unions desired, through their control of a majority of votes in the Party Conference, to force a narrowly self-interested policy upon the leadership of the party, they would have to remember that they cannot win an election by themselves. They may provide a majority of the members of the Labor Party, but they do not cast anything like a majority of the votes in a national election. The party must appeal to unorganized workers, consumers, housewives, the lower middle classes, and even to professional workers and farmers. If these groups are antagonized, control of the party will be a worthless asset to the unions. For the party is important to them only to the extent that it can win powerful support among the people as a whole, and the unions must therefore subordinate to some extent their narrow personal aims in order to get a broader program acceptable to the majority of the British voters. Thus, for example, the Trade Union Congress persuaded its members in 1949-50 to accept the national policy of wage control as an essential part of the efforts to close the dollar gap, even though a strong minority was fighting for increases.

The actual interplay of influences within what is essentially a structure of action is illustrated by the preparation of the statement of policy for the 1950 election: *Labor Believes in Britain*. In 1948, Herbert Morrison appealed to all party organizations with policy resolutions to submit them to the Executive. These resolutions were then considered by seven sub-committees, each under the chairmanship of a Cabinet member, whose membership was selected by the policy committee of the Executive. Technical assistance was provided by the research department of the party and the Fabian Society, and papers totaling some half million words were produced. When the sub-committees completed their reports, they were not only submitted to the policy committee of the Executive but also discussed with the appropriate organs of the Trades Union Congress and the Co-operatives. The result, *Labor Believes in Britain*, was adopted by the Executive in April 1949 and was circulated to the constituency parties before

being submitted to the annual Conference in June. Despite some protests, the Executive insisted that resolutions for amendments should be submitted to it without debate, though there was no curb on discussion and criticism of the document. In the end, however, the Conference had to accept or reject the manifesto as a whole. That it was overwhelmingly approved, with only 8 contrary votes, reflected the general satisfaction with the program. It also reflected the customary result of the interaction between the rank and file and the interest groups of the party, on the one hand, and the leadership, as represented by the parliamentary leaders of the party and the Executive Committee, on the other.

### *The Conservative Party*

In principle the aim of the Conservative Party is to preserve the best in the nation's political tradition while adapting this tradition to the demands of changing times. As the ancient defender of the Monarchy, the Church, and the Empire, the party still tends to rally against a threat to any of these institutions. But the Monarchy and the Church are no longer vital issues, and the chief problem of the contemporary party is the devising of a way to meet the socialist threat.

On this subject there is considerable division of opinion. The right wing of the party still tends to regard the established social order as the epitome of wisdom and justice. The fact that an institution has been inherited from the past suggests to them that it is natural and good, the product of the accumulated wisdom of the ages; they are deeply suspicious of reforms based upon "theory" or reasoning rather than experience, and they resist any tampering with such foundations of the social order as private property and class distinctions. However there are also many members who believe that the country cannot survive unless it responds to the general demand for social and economic reform and who are ready to accept a considerable measure of government planning of the economy and of governmental responsibility for health, education, and social security. Disraeli himself and Lord Randolph Churchill, the father of Winston Churchill, not only preached but won support



for "Tory democracy" in the late nineteenth century. "The Conservative Party will never exercise power," maintained Lord Randolph, "until it has gained the confidence of the working classes." Many Conservatives emphasize the same point today, and particularly among the younger members of the party there is a genuine desire for a vigorous and forward-looking program capable of competing with Labor's proposals. The publication in 1947 of the Industrial Charter (which accepted the need for central planning) and, in particular, the strong endorsement of this Charter by the Conservative Conference of 1947 represented a great victory for this group. It was noticeable also that *The Right Road for Britain*, the Conservative statement of policy in 1949, pledged "the maintenance of full employment" and endorsed social services, while their manifesto for 1951 emphasized housing to which they pledged a priority second only to national defense.

In opposition to the Labor Party, the Conservatives claim that they alone represent the nation as a whole as distinct from a single class within the nation. Every effort is made to attract voters from all sections of society, and great care is taken at party conferences to grant a conspicuous place on the program to workers and housewives. In contrast, the Labor Party accuses the Conservatives of being the narrowest of class parties, a tool of the vested interests and an instrument for the exploitation of the many poor by the few wealthy.

Both of these claims have a certain amount of factual support. So far as Conservative voters are concerned, the party draws its support from a great variety of sources. It is strongest among the wealthier classes and in rural areas, but it receives many votes not only from the middle classes but from the working classes as well. However, if one looks at the party's leadership, the charge that the Conservatives are the party of the upper classes gains in substance. In the 1945 election not a single one of the Conservatives elected to Parliament was a worker, although there were one hundred and fifty-five workers among Labor's members. In 1950, of 621 Conservative candidates only seven could be termed manual workers, and only four more belonged in the lower middle-class group. In 1951, again, there were no workers among the Con-

servative members though eighty-nine on the Labor side of the House. Men of great wealth, however, were conspicuously present on the Conservative benches. In the years before the election of 1945, about 40 per cent of the Conservative members of the House of Commons possessed hereditary titles or were related to the nobility. More than 40 per cent were directors of business enterprises, and still others were members of or were related to some of Great Britain's most prominent industrial families. In the 1951 election, there were eighty company directors among the successful Conservative candidates, by far the largest occupational group in the parliamentary party.

To some extent this situation results from the fact that politics is one of the careers traditionally open to "gentlemen" and that there is still a strong feeling of obligation, among aristocratic families, to accept the burdens of public service. But as the government has intervened more and more drastically in economic matters, there has also been a strong inducement for great financial and industrial interests to take the lead in the battle against "socialism," both by contributing heavily to the Conservative Party and by winning seats in Parliament for their spokesmen. In this way men of wealth have come to occupy a position of influence inside the Conservative Party not unlike that of the "trade union bosses" in the Labor Party.

In recent years the Conservatives have become increasingly sensitive to the charge that they are a class party. In particular, the practice of local Conservative associations of choosing candidates who could pay all of their campaign expenses and contribute heavily to the party funds has come in for serious criticism. The 1945 Conference accepted a resolution reading: "This meeting regards the almost complete lack of Wage-Earners and Trades Unionists in the ranks of Conservative Members of Parliament as detrimental to the future prospects of the Party." Party headquarters had already decided the year before that no candidate should be expected to contribute more than £100 to his association or to pay more than half his election expenses. But that the purpose of these restrictions was not being achieved became clear when the 1948 Annual Conference was warned that many constituencies still accepted only those candidates



who would contribute the maximum amount. In the same year, in a more drastic effort to restrain local constituencies from choosing only wealthy candidates, the Conference accepted the recommendations of its Committee on Party Organization that candidates should be relieved of all election expenses, that Members of Parliament should be permitted to contribute not more than £50 a year to their association, and candidates no more than £25. These provisions applied, however, only to candidates chosen from 1949 on, a relatively small percentage of those who fought the 1950 and 1951 elections. Thus its effect cannot yet be gauged.

Yet if men of wealth occupy a disproportionate position in the party, they know that they cannot win an election by themselves and that a Conservative program, to be successful, must consider the interests of the rest of the community; and in this sense there is a strong, if intangible, restraint upon the "naked rule of wealth."

#### THE PARTY MACHINERY

*The National Union of Conservative and Unionist Associations.* The Conservative Party's organization is considerably simpler than that of the Labor Party because it contains no autonomous organizations like the trade unions and the socialist societies, and because supreme authority is clearly concentrated in the hands of the party's Leader. The most broadly representative of its organs, however, is the National Union of Conservative and Unionist Associations, including about two and a half million formally enrolled members, and its annual Conference.

Conservatives claim that their organization is not only much simpler than Labor's but that it is also more democratic. In the first place, the Conservative constituency unit has much more autonomy of action than the comparable unit in the Labor Party, which is looked on as the local branch of the national organization. Moreover, the representatives of Conservative associations at the annual Conference are left "free to speak and vote according to their own consciences." In addition, each constituency organization is given equal representation regardless of size, and if this arrangement seems to discriminate against the larger organizations, it

also means that no delegate is in a position to cast a great block of votes comparable to those controlled by some of Labor's trade union leaders.

But if the Conservative Conference is in a certain sense more democratic, it is also less powerful than the Labor Conference. The Labor Conference's decisions are binding on the party organization, if not on the members in Parliament; but Conservative Conferences are repeatedly reminded, in the words of one speaker at the 1947 meeting, that it is the party's Leader "who must take the final decision on all . . . matters and must himself promulgate the policy when the time comes." The primary function of the Labor Conference is the making of decisions on policy, but the resolutions passed by the Conservative Conference are only advisory and may be treated as the Leader pleases.

As a result, there is a fairly fundamental difference in spirit between the two party meetings. At the Labor Conference, the leaders are subject to harsh criticism and meet repeated challenges to their authority. Often these challenges can be met only by personal intervention, and the leaders must be there to defend themselves. But in the Conservative Conferences, leaders are subjected to no such test; and the high point of the meetings is not a debate in which the most distinguished leaders participate but a series of prepared addresses which these leaders deliver to an audience which comes to cheer and not to criticize.

*The Central Council and the Executive Committee.* Although the Union has a Central Council and an Executive Committee, neither of these organizations possesses great power. The Council is the Union's governing body, but its size is too unwieldy to permit effective action. It meets only twice a year, and its chief business is to listen to a report from the Executive Committee, to consider motions proposed by the local party organizations, and to send any recommendation it may have on these matters to the party's Leader. The Council, however, has power to amend the rules of the National Union.

The Executive Committee meets more frequently (once a month) to consider resolutions and reports which have been sent up by various

subordinate bodies. Upon occasion it makes special studies and collects evidence, but its conclusions are simply submitted to the Leader of the party by way of advice.

The real function of the National Union, the Council, and the Committee, in short, is to provide a means by which the Leader can keep in touch with all sections of the party. Through them he can learn of any discontent and of any currents of feeling among ordinary members of which he ought to be aware, and through it he can communicate his decisions and policy to the party membership. But essentially the system is one of autocracy tempered by advice and information.

*The Central Office.* As one might expect, it is the Leader and not the Executive Committee (as in the Labor Party) who controls the Conservative Central Office. The party Chairman, who heads the Central Office, is appointed by the Leader, as are its Vice-Chairman and Treasurer. The principal administrative official, the General Director, is responsible to the Chairman.

Like Labor's "Transport House," the Conservative Central Office, "Abbey House," organizes local party groups, prepares propaganda and publicity, raises money, draws up lists of recommended candidates, and oversees the general efficiency of the party organization. It works closely with area and constituency organizations and with the National Union, but it makes no pretense of being under their orders and tries, rather, to guide and mold them to its policies.

After a period of substantial constituency autonomy, the Central Office has reasserted the principle since 1945 that prospective candidates must receive national endorsement before being considered by local associations; otherwise they will not get the official letter of support from the party's Leader. Moreover, the Central Office's financial resources and the tradition of loyalty to the party leadership give it, in practice, great authority. Certain constituency associations may ignore its recommendations when their prospective candidates are wealthy men prepared to contribute generously to their support; but in most cases of intra-party disagreement it is the constituency organization which gives way.

*The Leader.* The predominant position of the Conservative Party's Leader was succinctly stated by the party's Chairman in 1947:

His authority is based on free election, and the confidence of his supporters. Resolutions passed by the National Union are sent to him for his information and guidance, but no resolution, however emphatic, binds him on questions of policy. In short, the Party Leader is expected to formulate policy. This method suits us, and has suited the succession of great men we have been proud to have as our leaders.

Thus in 1945, while the Labor Party program was issued by the National Executive Committee and was approved by the Party Conference, and while the Liberal "Manifesto" was signed by six men and women representing all of the important Liberal organizations, the Conservative Party's program was entitled "Mr. Churchill's Declaration of Policy to the Electors." The Conservative manifesto of 1950, though subtitled "The Conservative and Unionist Party's Policy," was prefaced with an introduction by Mr. Churchill, and that of 1951 signed personally by him.

The Leader of the Conservative Party is elected by a meeting of Conservative members of both Houses of Parliament, Conservative candidates for Parliament, and members of the Executive Committee of the National Union. But usually the most influential members of the Party are already in agreement as to who is to be Leader, and the election is purely a formality.

A Leader, once chosen, is almost irremovable—or rather, he can be removed only in the ways in which monarchs are deposed: by death, disease, abdication, or intrigue ending in revolution. His power over policy and over the Central Office, when combined with the tendency to turn him into a personal symbol of the party, makes it impossible to overthrow him without a major civil war within the party and, seemingly at least, a full condemnation of the record of the party which he has led. In either case, the party would almost certainly destroy its prospects for electoral success. Accordingly, the Leader, if he chooses, has practically unlimited power as long as he retains the support of the social and financial leaders of the country. The Leader selects the colleagues with whom he is

to work, though if he is wise he chooses men of outstanding ability who represent the important elements within the party. He has a powerful influence over party policy, though again, if he is wise, he consults with other leaders. He alone determines how the party whip is to be used, or whether a member is to be expelled from the party. Different personalities make use of this power in different ways. Some think of themselves as team leaders whose co-workers must go along with them voluntarily. Some assume a more autocratic position. But if a Leader wishes to, there is nothing but his good judgment to hinder him from using his powers to the full.

### *The Minor Parties*

#### THE LIBERAL PARTY

For many generations the Liberal Party and its predecessor, the Whig, was one of Great Britain's two large parties; and even today the Liberals are not a minor party in their intellectual capacity or the quality of their leadership. Many of the most important and constructive ideas in British politics continue to come from their ranks, and until 1951 they still commanded a sizable if declining popular vote. Almost two and a quarter million voters supported the party in the 1945 election; but of its 306 candidates, only twelve were elected to Parliament. Seven of the twelve represented districts in Wales. In 1950, the debacle was even greater. The number of votes cast for Liberal candidates was over two and a half million; but of its 478 candidates, only 9 were elected, and 319 lost their deposits (see p. 62). Though the distribution of votes throughout the country was fairly even, the Liberals emerged again in 1950 as the party "of the Celtic fringe." In 1951, there was a sharp decrease in their votes to less than three-quarters of a million; and four of the six Liberal members of Parliament were elected in Wales.

The decline of the Liberal Party is largely the fault of the British electoral system. There are still many people in Great Britain who desire far-reaching social and economic reform or who are opposed to high tariffs (and who therefore dislike the Conservatives) but who also distrust

the growing authority of the state (and therefore fear socialism and the Labor Party's program), but there are few constituencies in which they are numerous enough to win the seat. Thus the very evenness of the distribution of the Liberals has penalized them in their efforts to become a major party again. Today only the Conservatives and Laborites can hope to win a majority of the seats in Parliament, and there is an almost irresistible temptation to "make one's vote count" by supporting a party which has a chance to win. The result has been a downward spiral in Liberal power. Yet one of the surprising features of British politics is the persistence of the Liberals in fighting elections on a scale far from warranted by their recent performances. At the same time it is noticeable that whereas in 1950 the Liberals bitterly rejected the overtures of the Conservatives, in 1951 seven Liberal candidates received Conservative support. In Parliament, the Liberals have generally (though not invariably) supported the Conservatives and, when neither of the major parties has a clear-cut majority, possess rather more influence than their numbers would otherwise warrant.

#### THE COMMUNIST PARTY

The Communist Party in Great Britain, like the Communist Party elsewhere, has followed so opportunistic a policy and one which has involved so many shifts in the party line that it has disillusioned many of its supporters and remained in a relatively weak position. It is chiefly of interest because of its relations with the Labor Party which it has at times hoped to enter and dominate and which it has at other times attacked most violently.

Even when it has wished to unite with Labor, however, the Communist purpose has been to "bore from within" and alienate the rank and file of the members from their leaders. Lenin himself once wrote, "I want to support Henderson [an outstanding Labor Party leader] with my vote in the same way as a rope supports one who is hanged." Under the circumstances, it was natural for Labor's leaders to fight back, carrying on a relentless war against Communist influence in their organization. Every attempt of the Communists to affiliate with the party has been turned down by the Executive and

the Conference; and according to the present

a request to be considered in the future. This attitude on the part of Labor's leaders is reinforced by the knowledge that Communist affiliation would frighten away many of the middle-class voters who now support Labor.

The Communist Party, by itself, is extremely weak numerically, although its members to some extent make up in enthusiasm and unquestioning devotion what they lack in numbers. In 1945 the party had 21 candidates for Parliament but succeeded in electing only two; all told, its candidates received one hundred thousand votes. In 1950, for the first time, it tried to fight an election on a national scale and put up 100 candidates. But though its campaign showed evidence of careful planning, the Communist Party did not succeed in electing a single candidate while its total vote was cut to 92,000. Moreover, all but three of its candidates lost their deposits. In 1951, the total vote for the ten Communist candidates was only 22,000, and all of them lost their deposits. It is still true that leaders of the Communist Party have entrenched themselves in certain powerful trade unions, which gives them an importance out of proportion to the actual number of their adherents. The Labor Party, however, has almost completely purged its ranks of "crypto-Communists"—i.e., men who deny any official relationship to the Communist Party but whose attitude on any specific issue is likely to be indistinguishable from that of the Communists.

### III. PROGRAMS AND ELECTIONS

#### *The Party Programs*

Americans who look at the British party system are sometimes tempted to think of the country as divided into two bitterly hostile camps, one fighting for the maintenance of capitalism and the vested interests and the other determined utterly to destroy them. Some English writers, too, have encouraged the belief that between the two camps there can be no compromise and that the struggle can end only in the triumph, perhaps through violence, of one or the other.

If one is looking for dramatic conflicts, how-

lusioning experience. The differences in position are far less extreme than one might anticipate, and on some points the position of the two parties is practically indistinguishable. For this phenomenon there are several explanations. It is true, for example, that since 1918 the Labor Party has been socialist in principle "and proud of it," demanding "the progressive elimination from the control of industry of the private capitalist, individual or joint-stock; and the setting free of all who work, whether by hand or by brain, for the service of the community, and of the community only." But the party's socialism has been neither radical nor doctrinaire, and its leadership has never suggested that the fundamental changes for which it is working should take place other than gradually, constitutionally, and practically. The policy of the Labor Party is to concentrate on individual reforms: to work for the nationalization of key industries, for specific improvements in working conditions, for protection against ill health, unemployment, and undernourishment, for education, and for security "from the cradle to the grave." But the Conservatives (and, of course, the Liberals) realize that they cannot win an election without appealing to the same middle-class and lower middle-class voters who are attracted by much of Labor's program, and to win their support they often go a long way in individual cases toward advocating the same things which Labor promises.

#### SIMILARITIES IN PROGRAM

Though, especially in the heat of an election, as in 1951, the parties are likely to attack each other's handling of foreign affairs, basically the programs of the two parties do not differ greatly in matters of international policy. Both urge support of the United Nations, assert their allegiance to the Commonwealth, endorse co-operation with the United States and with Western Europe, and approve the development of colonial territories. While both parties spoke in 1945 of co-operation with the Soviet Union however, only Labor declared in 1950 that "we will remain ready at any moment to co-operate with Russia, as with any country that is prepared to work with us for peace and friend-

ship," while the Conservatives referred rather to "the Iron Curtain" and "Communist dictatorship"; in 1951 Labor stated it would "persevere" in efforts with the Soviet Union but also referred to "grievous disappointments" particularly with that country, while the Conservatives stressed the threat of "Soviet imperialism."

What is more surprising is the agreement on certain domestic issues which are inherently controversial. In 1945, for example, the Conservative Party accepted "as one of its primary aims and responsibilities the maintenance of a high and stable level of employment"; in 1950, it went still further to say in its manifesto, *This is the Road*, "We regard the maintenance of full employment as the first aim of a Conservative Government." Similarly, Labor in 1945 declared "full employment" to be a government responsibility, and in 1950 maintained in *Let Us Win Through Together* that "the supreme aim that we set before the nation is the maintenance of full employment." In regard to social welfare, which both parties endorsed in 1945, the Conservatives declared that "We are determined to give a solid base of social security below which none shall fall," while Labor pointed out that it "had honored the pledge it made in 1945 to make social security the birthright of every citizen." More specifically, the Conservatives pledged themselves "to maintain and improve the Health Service," "bring into operation the reforms set out in our Education Act of 1944," continue Town and Country planning, and press forward the housing program (particularly emphasized in 1951 as "the first of the social services" and "one of the keys to increased productivity"); while Labor emphasized that its contributions in all these fields would be continued, e.g., "Education will in every way be expanded as fast as our straitened means allow," and "Labor intends to see . . . that the fastest possible progress is made with the great adventure of the New Towns." On agriculture, the Conservatives stated that "Home food production must have an assured place in the national economy," while Labor asserted "We must grow more food at home."

As between 1945 on the one hand and 1950 and 1951 on the other, slight differences of emphasis are evident. In 1945, Labor was in almost every instance ready to offer a slightly

more drastic solution than were the Conservatives and to suggest that the Conservatives did not have the reforms so much at heart. In 1950 and 1951, Labor was standing on its record and eager to make clear that it would continue to advance as fast as British resources would permit. The Conservative Party, though obviously a little more tender of existing property rights, insisted it had a traditional attachment to human welfare, and superior administrative capacities, which meant that reforms would be safer in its hands. Thus there was so extensive an agreement over ultimate objectives as to hinder if not completely prevent the growth of an uncompromising hostility which would be fatal to peaceful and democratic agreement.

#### DIFFERENCES IN PROGRAM

Behind this pleasant agreement on objectives, however, there have been disagreements over the proper methods of achievement. In 1945, Labor advocated the nationalization, with fair compensation, of the Bank of England, the fuel and power industries, inland transport, and the iron and steel industry. It called for supervision of monopolies and cartels, control of prices to prevent profiteering, and the taking over of farm land which was not used efficiently. These were measures for which the Conservatives felt considerable distaste, and in place of which they advocated private initiative without undue state ownership or interference.

The differences in 1950 and 1951 between the approaches of the two parties were somewhat tempered by the fact that Labor had achieved practically the whole of its initial program, and that the Conservatives were unwilling to "unscramble" most of the arrangements by then in force. But there was still a clear-cut contrast between the two which reflected a fundamental difference in approach. Labor, asserting that "Private enterprise must be set free from the stranglehold of restrictive monopolies," declared that "Monopoly concerns which cannot be dealt with in other ways will be socialised,"<sup>1</sup> though in 1951 it modified this into "We shall take over

<sup>1</sup> It specifically earmarked for nationalization beet sugar manufacture, sugar refining, and the cement industry though these were not, in fact, carried through. It also warned that the chemical industry would be carefully examined, and if evidence warranted parts of it might be transferred to public ownership.

concerns which fail the nation." The Conservatives stated categorically, "We shall bring Nationalization to a full stop here and now." They also pledged themselves to repeal the Iron and Steel Act, to allow private road haulers to return to business, and to reorganize nationalized rail and road transport into regional groups (rather less than stated in the 1950 manifesto).

Such differences in method were reinforced by attacks upon the records of the opposing parties. Labor widely used the negative "scare" approach both in 1950 and 1951, emphasizing Conservative mistakes in the "hungry" thirties and charging that "Under the Tories agriculture was plunged into a depression from which it was rescued only by war," that "Big Business did not believe in Britain—it believed only in profit"—and that the Tories "stand, as they have always stood, for privilege." The Conservatives charged that "the Socialists have failed in their duty. National resources have been squandered. Individual effort has been discouraged or suppressed. National unity has been deeply injured," and that "A vote for Socialism is a vote to continue the policy which has endangered our economic and present independence both as a nation and as men and women." They maintained, moreover, that "all forms of production and distribution are hampered in a Socialist atmosphere which denies enterprise its reward while making life too easy for the laggards." Thus, as in 1945, Labor called for the defeat of the "hardfaced" men who profited from the misery of others, and could not be trusted to carry on reforms, while Conservatives warned of the danger of entrusting power to the "Socialist bureaucrats" of the Labor Party.

### Elections

Elections in Great Britain may occur with very little warning, and British parties are therefore obliged to adopt a strategy quite different from that of American parties. In the United States, of course, anyone can predict the date of presidential elections for generations to come. Every four years, whether it is convenient or not, the Constitution requires the election to be held: candidates may announce their availability a year or more in advance, and there is active competition for delegates to national conven-

tions in the winter and spring preceding an election. The nominating conventions themselves are held in June and July; September and October are filled almost nightly with campaign addresses; and by the time the voters make their decision early in November, they have been exposed to many months of electioneering.

In Great Britain, in contrast, the Prime Minister may dissolve Parliament and ask for new elections any time he desires. Elections are not supposed to be more than five years apart (though because of the war there was no election in Great Britain between 1935 and 1945), but within this five-year period the Prime Minister has complete freedom to set the time of voting. Thus it would be perfectly possible for several elections to take place within a single year, though as a matter of practice a Prime Minister who has a strong majority in the House of Commons will probably wait three or four years. Probably in the course of the fourth year of office, however, he and his colleagues will begin to look for favorable issues on which they can "go to the country," and when they have found such an issue and when the time seems appropriate, the King, on the Prime Minister's advice, will dissolve Parliament. Naturally, the Prime Minister attempts to select a moment favorable to his own party's electoral chances but, as both the 1950 and 1951 elections demonstrated, it is difficult in a complex political situation to be sure to whose advantage the time will work.

The time between dissolution and election is very short. On the eighth day (not counting Sundays and holidays) after the Royal Proclamation of Dissolution, candidates must have filed their nomination papers, and nine days after that (again excluding Sundays and holidays) the vote is taken. In 1945, for example, Parliament was dissolved on June 15 and the people voted on July 5, not quite three weeks later; in 1950, the dissolution was proclaimed on February 3, and the people voted on February 23; in 1951, the dissolution was on October 5 and voting on October 25. Prior notice of the dissolution, however, provided an additional three weeks for preparation in 1945 and 1950, and just over two weeks additional time in 1951.

Sometimes it is possible to guess in advance when a dissolution is likely to take place; but



rumors can be exceedingly deceptive, and even under the best of circumstances a party must concentrate into a few weeks a campaign which in America would occupy at least as many months. This means that any party which waits until dissolution to prepare its organization suffers an impossible handicap. To be successful, it must be ready to fight an election at any time. The candidates must be selected and made known to their constituency, their programs must be worked out and publicized, and every effort must be made to dramatize issues in advance. Thus foreigners sometimes have the impression that Great Britain is in the midst of a never-ending election campaign, and they are not altogether wrong.

#### THE CONSTITUENCIES

Candidates for the House of Commons are elected from geographical areas which are roughly equal in population. This requires periodic redrawing of the boundaries of constituencies, and one of the most substantial of such rearrangements took place as the result of the Representation of the People Acts of 1948 and 1949. Since boundaries had not been redrawn since 1918, and the population had shifted substantially in the intervening period, an almost entirely new electoral map resulted from the legislation. The total number of seats for the House of Commons dropped from 640 to 625 (largely due to the abolition of the two remaining forms of plural voting: the business premises vote, and the university graduates vote<sup>2</sup>), only 80 constituencies retained their former boundaries, and many of the rest were so extensively redrawn as to be new in fact, if not always in name.

An impressive feature of the redistribution was the impartiality with which it was undertaken. In fact, it is generally estimated that the redistribution had so adverse an effect on Labor's electoral fortunes as to account for between 25 per cent and 50 per cent of the drop of 79 seats which they suffered between the elections

of 1945 and 1950. In 1945, the electoral map favored Labor: the average constituency returning a Labor member had about 51,000 voters, while those returning a Conservative member had about 57,000. In 1950, the advantage tilted the other way, largely because Labor's strength is so concentrated in some areas, but also because rural areas generally have slightly more representation per voter than city areas. Thus, despite the fact that the government, over Conservative protests, modified the arrangements provided by the four permanent boundary commissions to add 17 extra seats to certain large towns, the average country constituency numbered only 52,575 in 1950 as compared with borough constituencies of 56,529. Moreover, the sparsely settled areas of mid-Wales and the Highlands were left with their old boundaries, since otherwise it would have made the constituencies too large to retain any community sense.

#### THE VOTERS AND THE LOCAL PARTY ORGANIZATIONS

Any person who is a British subject, twenty-one years of age and not subject to any legal incapacity is entitled to vote in any election in the constituency in which he resides. Each constituency has a "register" of those entitled to vote, and it is the responsibility of the government (not of the voter, as in the United States) to see that the register is kept up to date.

Much of the campaign to influence these voters is directed from the Central Offices of the rival parties, which issue campaign literature, assign speakers, provide candidates and agents where they are needed, raise money, and decide where it can be spent most effectively. But the burden of campaigning actively for the local candidates for Parliament falls upon the constituency organizations.

As one would expect, the local organization of the Labor Party (whose General Management Committee must include representatives of local trade union and other affiliated organizations) is more complicated than that of the Conservatives. Both parties, however, have small Executive Committees which hold the real power in the local organizations and take the initiative in selecting candidates. Often the group asks, and acts upon, the advice of the

<sup>2</sup> The business premises vote was relatively insignificant except in the City of London, and a few other constituencies in the larger cities, where it has traditionally been a Conservative asset. There were 12 university seats, however, of which about half were generally held by distinguished Independents like Sir A. P. Herbert, and Sir Arthur Salter. None of the university seats were ever held by Labor.

Central Office, and in both parties the candidate chosen by the Executive Committee is presented for formal approval to a general meeting of party members. In the Labor Party the candidate must also win the approval of the National Executive Committee, and he must be a dues-paying member of the party and, if eligible, of a trade union. Since 1945, as we have observed, the Conservative Central Office has similarly attempted to insist on national endorsement of candidates (see p. 56).

#### THE CANDIDATE

Candidates for Parliament in Great Britain are not required by law or custom, as in the United States, to be residents of their own district, and this makes it possible for the Central Office to find safe seats for candidates whose talent makes their presence in Parliament desirable but who would never be elected by, or who have actually been defeated in, their own place of residence. In the United States the wisest Democrat in the country might live in Vermont and the ablest Republican in Mississippi, but neither could hope ever to sit in the House of Representatives or in the Senate. In Great Britain, as long as candidates are citizens and of age and as long as they do not fall in the rather oddly juxtaposed categories of criminals, bankrupts, lunatics, peers, and clergymen of the Roman or the established churches, they may run in any constituency in the realm.

According to British electoral law, anyone—excepting these few—may become a candidate for Parliament who, on nomination day, files papers signed by two registered electors (who are called nominators) and by eight other registered electors who “assent” to the nomination. (Sometimes candidates secure large numbers of “assenters” to show the breadth of their support. In 1950, for example, the Conservative candidate for Bury St. Edmunds had 18,107 signatures, one-third of the electorate.) In addition, the sum of £150 must be placed on deposit, the money to be forfeited if the candidate does not receive one-eighth of the total number of votes cast in the election. This financial provision is intended to restrict “frivolous” candidacies; actually it has the effect of strengthening the official party organizations, which can more easily provide the money and insure a suf-

ficiently large vote. For a candidate to “lose his deposit” is something of a political disgrace, and on the morning after an election there is considerable curiosity to see which candidates have undergone this humiliation.<sup>3</sup>

Long before he files his nominating papers, however, an official party candidate begins to “nurse” his constituency, showing himself in public as much as possible, joining local clubs, meeting the voters, and generally making himself well-known and popular. Conservative candidates, who usually have considerable personal wealth, discover that every charitable organization in the constituency expects a financial contribution; and although Labor’s less affluent candidates can hardly hope to win popularity in this fashion, they compensate for their handicap by the assiduity with which they visit, advise, and help the residents of the district, often becoming a combination of errand boy and father confessor whose time and services are expected to be at the disposal of every voter.

Once a general election has been called, this activity is intensified. The candidate shows himself as widely as possible; if he cannot call personally on every voter in the district, he is at least likely to do so in strategic places. Often he tours his district in an open car, stopping in each city street and in each country village and speaking with the aid of a microphone, while his party workers ring doorbells and bring the voters out to hear him.

#### THE AGENT

In addition to a candidate, every constituency organization which can afford it has an agent, whose job it is to know the intricacies of the election law and to see that his party does not violate it, to direct the work of fighting a campaign, and, between campaigns, to build an organization and prepare the strategy for victory. During an election he is the nerve center of the party organization, assigning workers to the places where they can do the most good, watching the plans and activities of the opposing parties, sensing the feelings of the voters,

<sup>3</sup> Labor candidates are always insured through the party’s central insurance fund against the loss of deposits. In practice, Labor lost no deposits in 1950 and only one in 1945, and in 1951. The Liberals, who lost two-thirds of their deposits in 1950, and nearly as many (66 out of 109) in 1951, were insured with Lloyd’s.



discovering the greatest threats to victory in time to meet them, and generally keeping all the threads of party organization and activity in his hands. The agents are really professionals, trained by their parties and having their own professional associations. A successful agent may be promoted to a job in a better-paying constituency or in the party's Central Office. Candidates are dependent upon agents for advice on their campaign activities (although an occasional candidate attributes his political success to the flouting of his agent's instructions), and it is the agent who must plan meetings, and arrange and supervise the collecting of signatures and the filing of nominating papers, the securing of committee rooms and meeting places, and the printing and distribution of publicity and advertising.

The extensive use of trained constituency agents provided the most striking development of party organization in the 1950 campaign as compared with previous parliamentary elections. The Conservative Party had by far the largest and best trained group of agents: 527 full time paid officials in the 524 constituencies of England and Wales. In some areas, there were also deputy agents or women's organizers. The Labor Party had considerably more difficulty in establishing a permanent full-time staff of agents, but by the eve of the 1950 election it had 279 working in England, Scotland, and Wales and 300 in 1951. This numerical inferiority in professional party agents found some compensation in the support of the trade unions, whose organizers, in some instances, took over much of the agent's work. The Liberals, in contrast to the other two parties, depended for the most part on unpaid, inexperienced assistance. Though they had 140 full-time agents working before the 1950 election, few of these had had time to build up the efficient local organization which is the particular contribution of the professional agent.

#### ELECTION EXPENSES

The amount of money which can be spent in the election period by any candidate in any constituency is limited by law, the exact figure depending upon whether the constituency is rural or urban and upon the number of voters it contains. New and lower limits of expenditure were established between the 1945 and 1950 elections,

the result of an earlier all-party agreement. No limit is placed, however, on the amount of money which can be spent before an election is called, and this rule works to the advantage of parties with greater financial resources, the more so with the increasing use of a permanent force of party agents.

In addition to the limitation on actual election expenses, there are heavy penalties, involving forfeiture of the election, for bribery, "treating," the exertion of undue influence, false declaration of election expenses, and the incurrence of expenses without the authority of the candidate or election agent (a device which prevents private persons from spending money to help their candidate, thus evading the restrictions); and there are lighter penalties for paying to convey voters to the polls, publishing propaganda without an imprint, paying for music, banners, ribbons, and other marks of distinction, paying private electors for advertising, publishing false personal statements about a candidate, and disturbing election meetings. Party agents receive elaborate instructions from headquarters warning them of all the pitfalls. The services of bands may be accepted only as a free gift, and even a cup of tea at campaign headquarters must be paid for to avoid a charge of "treating." The most recent restriction, embodied in the Representation of the People Act, 1949, is on the number of cars, even if freely donated, that can be used to transport electors to the polls. This limit (one car for every 1,500 electors in country constituencies or 2,500 in borough constituencies) was intended to undercut the advantage the Conservatives were supposed to have received from the greater number of cars they have available, but in practice seems to have worked as many hardships on one side as the other.

An interesting problem connected with campaign expenses under the new election law arose in 1950 when the cement companies and sugar refiners (Lyle and Tate), both of which were slated for nationalization under Labor's electoral program (see p. 59), ran strong anti-nationalization slogans as part of their advertising. Labor members charged this was a violation of the law, and the Attorney General, when asked for a ruling, hedged so ominously that the companies desisted for fear of jeopardiz-

ing the Conservative chances. An advertisement strongly criticizing the financial policies of the Labor Government, which was run in *The Times* by the Tronoh-Malayan tin companies six days before the 1951 election, was subsequently the subject of charges by Scotland Yard of corrupt practices under the election laws.

In spite of these limitations, the party or the candidate with money (and this usually means the Conservative candidate) has a certain advantage. Between elections, as already pointed out, the party can spend money on propaganda and organization, and the candidate can use money to nurse his constituency. Moreover, in the actual electioneering period, though the gap is growing less, there is still some difference in expenditures. In 1945 the average Conservative candidate spent £780, the average Labor candidate £595, and the average Liberal £530. Both in 1950 and 1951, when lower limits were in force (£450 plus 2d for each registered elector in a county constituency and 1½d for each in a borough constituency), a considerable number of both Conservative and Labor candidates spent their full quota. The overall picture shows, however, that the Conservatives spent almost up to the limit on all but the most hopeless seats, while Labor spent less, particularly where the outcome of the election did not seem in doubt. Liberal expenditures were spotty, with concentration in the areas where they did best.

If Labor cannot ordinarily compete with the Conservatives in financial strength, it has the powerful backing of the trade unions, an organized and perpetual "going concern" whose support is of immeasurable advantage in many constituencies. Then, too, Labor has traditionally made up any financial handicap by hard, and largely voluntary, work, and this fact has created its own advantages. Thus, in order to win volunteers, Labor must be sure to have a program which can arouse enthusiasm and which is comprehensible to the ordinary voter. It must concentrate on building up its membership, since each new member adds to its weekly income. More important, each contributor, no matter how small his weekly contribution (and a penny or two a week represents a real sacrifice in many working-class homes), is likely to feel a personal interest in the party and is likely to contribute his effort as well as his pennies in

order to see that his "investment" is not wasted. Partly because of this consideration, Conservative leaders now urge their members to get contributions, no matter how small, from as many voters as possible. In 1951, for the first time, the Conservatives insisted on constituencies meeting in full their own local campaign expenses. Moreover, it is indicative of the degree to which the Conservatives have personalized their campaign that in 1950, for example, they were much more effective in organizing the absentee or "postal" vote than was Labor.

Thus, the advantages are not all on one side, and devoted work is a monopoly of no party; but Labor counts its ability to inspire service to the "Cause" as one of its greatest assets.

#### THE CAMPAIGN

The foundation of the parliamentary campaign is the canvass. It is the aim of each party to call on every voter in the district, both to give out literature and to learn, if possible, how he will vote. Elaborate and secret records are then compiled, on which the party bases its campaign. No party wastes its time on those who are going to vote for its opponent, but the parties do need to know who their supporters are so that they can be sure to get them to the polls; and they want to know who is doubtful so that they can tell where to concentrate their energy.

Much of the work of canvassing and compiling records is done by women. The Conservatives profit from the leisure of women in the upper classes; but even in the Labor Party women often have more time than their husbands and are better able to find a free hour or two in the afternoon to attend meetings, work at headquarters, canvass, or collect dues. Regular meetings are held to keep them informed of current events, and such meetings may perform a social as well as an educational and political service: interest and activity, friendship, and some sense of purpose may come into lives which otherwise would be drab and monotonous. It is noteworthy that all parties have large women's organizations and that Labor has five women on its National Executive Committee.

Perhaps the most spectacular events in a campaign are the meetings addressed by candidates and prominent party leaders. Because of the restrictions on expenditure, there are fewer bands

and less ornate decorations than at American party rallies, but in one sense the meetings are livelier than their American counterpart. Heckling has been turned into a fine art, and the candidate must expect to be harried and interrupted by sharp, witty, and inconvenient questions. The test is often one of his good humor and presence of mind rather than of his principles, and a quick and clever response can sometimes do the candidate more good than the most carefully prepared speech.

The best picture the voter receives of the candidate's position is contained in the "election address," a pamphlet of three or four pages which is mailed to the voters post free and which usually contains a picture of the candidate, a statement of the principles and issues in which he is interested, and the events which have distinguished his career. Sometimes the candidate's wife adds a message to the women of the constituency, and there may be a photograph of her and her husband surrounded by their children. One Labor candidate in 1950, for example, enclosed a folder *From Family to Family* with messages (and photographs) from his wife, his 16-year-old son, 14-year-old daughter, and 81-year-old mother.

In addition, the constituency and national party organizations frequently publish special newspapers containing news items, photographs, and cartoons; and the great daily newspapers may prepare special editions to help the parties of their choice. Party headquarters also issue a deluge of pamphlets and circulars.

To a far greater extent than in American Congressional campaigns, the voter judges the local candidates in terms of national personalities and issues. Particularly if the party Leader is a man of great popularity, local candidates try to impress upon the electorate that a vote for them is a vote for the Leader. In the 1945 campaign, for example, Conservatives counted on the tremendous prestige of Winston Churchill to carry them to victory, and a local Conservative candidate might print at the head of his election literature "I am the ONLY CANDIDATE pledged to support MR. CHURCHILL AS PRIME MINISTER."

Partly because their Leader, Mr. Attlee, was a far less colorful and popular figure, but also because it fitted their traditional approach to politics, Labor put much greater emphasis on

issues. Where Conservatives talked about Mr. Churchill, Labor talked about the party program, contained in a pamphlet entitled *Let Us Face the Future*, which received remarkably wide circulation and exercised tremendous influence. During the campaign this concentration on ideas and program rather than personalities was regarded as an almost fatal handicap, for it had been a truism of British politics that a discussion of the issues would be above the heads of the voters and that leadership was the determining consideration. The results of the election went far to disprove this generalization, however, and in the 1950 and 1951 election campaigns the lessons learned in 1945 were put into effect. One of the most obvious differences, for instance, was the reduced importance of Mr. Churchill in Conservative addresses, partly perhaps for fear he would overstate his case again as in 1945 (for similar reason little national publicity was given to Aneurin Bevan by Labor). Beyond this, there was a general concentration upon issues, though not always on those of primary importance for the country.

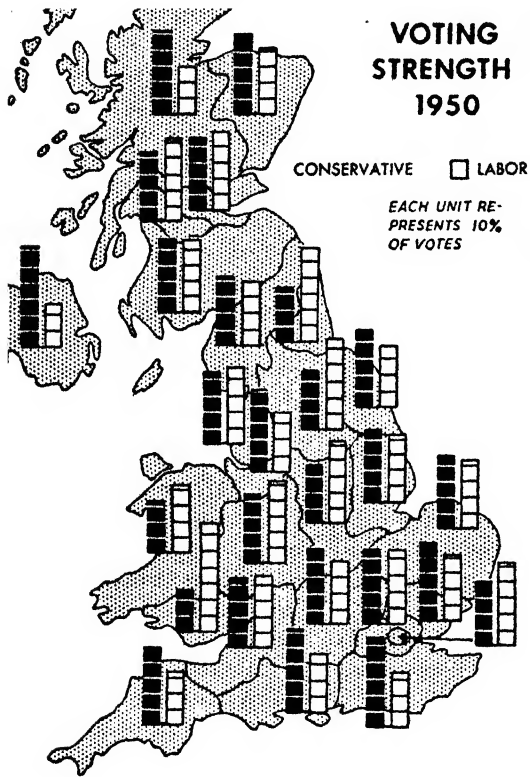
#### CAMPAIGN DEVICES

In certain respects, British campaigns are no more edifying than American. As in American campaigns, British parties may try to spread panic among the voters with reports of the horrible consequences of the victory of their political enemies. In 1945 Mr. Churchill devoted considerable attention to the famous "Laski bogey," the charge that Professor Laski, as Chairman of the Labor Party's Executive Committee, would control the government and that Labor would be obliged to set up a political police or Gestapo to prevent opposition to its policies. Labor retaliated with charges that Lord Beaverbrook (the "Hearst of England") would dominate the government if the Conservatives were returned to power. The 1945 election seemed to indicate, however, that a more serious, and perhaps a more sophisticated, generation of voters was antagonized rather than impressed by such tactics; and here, too, the 1950 and 1951 campaigns were conducted on a higher level.

#### ELECTION GEOGRAPHY

In any election, each party has certain strongholds which it is almost sure to carry. Labor's

greatest strength, as one would expect, is in the working-class districts of the big cities, in some of the smaller industrial towns, and in mining and industrial areas like South Wales, Durham, the lowlands of Scotland, the Midlands, Lancashire, Yorkshire, and Cumberland. Thus in 1945 and again in 1950, Labor carried all eighteen seats in the county of Durham, and lost only one seat in 1951.



The Conservatives are strong in the wealthy residential districts of the large cities (like the West End of London), resort towns like Bournemouth and Brighton, the North of Ireland (where the party goes by the name of Ulster Unionist), the North of Scotland, the southern suburbs of London, Sussex and Surrey (the latter was the only large county in England to give all its seats to the Conservatives in 1945, 1950 and 1951, though seven smaller counties did likewise in 1950 and 1951), and the farming areas, although Labor has been breaking into the farm vote, notably in Norfolk.

The Liberals receive most of their support

from the "Celtic fringe" of Cornwall, Wales, and Cumberland, where, among other considerations, the Nonconformist vote is still strong.

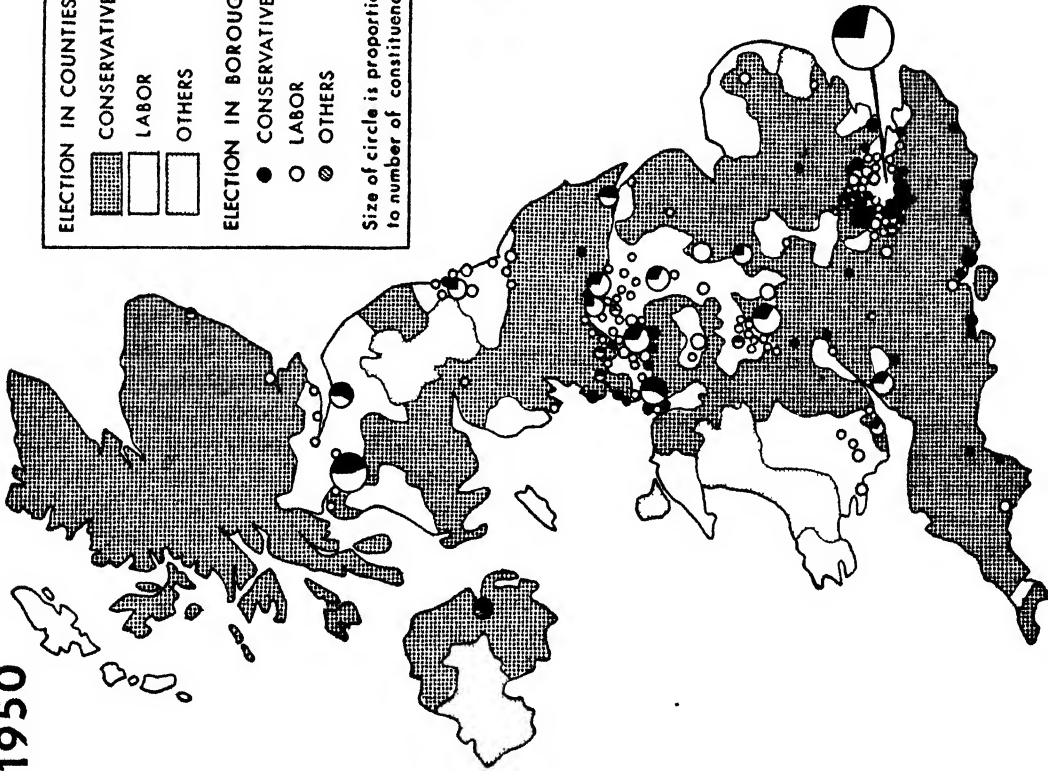
Yet these data indicate a much simpler election map than actually exists. The fact is that in almost every area, even those regarded as impregnable strongholds of one party or the other, there is a very sizable group of voters supporting the opposition. Thus in the 1950 election the only areas in Great Britain which cast fewer than 30 per cent of the votes for Labor were those of Northern Ireland and Northern Scotland; and the only area which cast fewer than 30 per cent of its votes for the Conservatives was South Wales. Even the strong Tory regions of the southern suburbs cast 34 per cent of their votes for Labor, while in the "Black Country" around Birmingham 37 per cent of the votes went to the Conservatives. The accompanying map illustrates this point clearly. Since 83.96 per cent of the registered voters cast their ballots in the 1950 election (and 82.6 per cent in 1951) this is convincing evidence of the substantial support which both the major parties have in virtually every area in the country.

It is still true that the decisive areas in an election tend to be the middle-class and lower middle-class residential and suburban areas, where a substantial number of voters are uncommitted to either party. The Conservative success in these areas in 1935 and the Labor success in 1945 were powerful factors in their respective electoral victories. Moreover, the residential areas of the big towns, and particularly of London, were those in which Labor suffered its heaviest losses in 1950. It is sometimes said that these moderate and marginal areas exert the most effective pressure on the great parties to curb the extremists in their ranks and to frame a program which will have a general appeal.

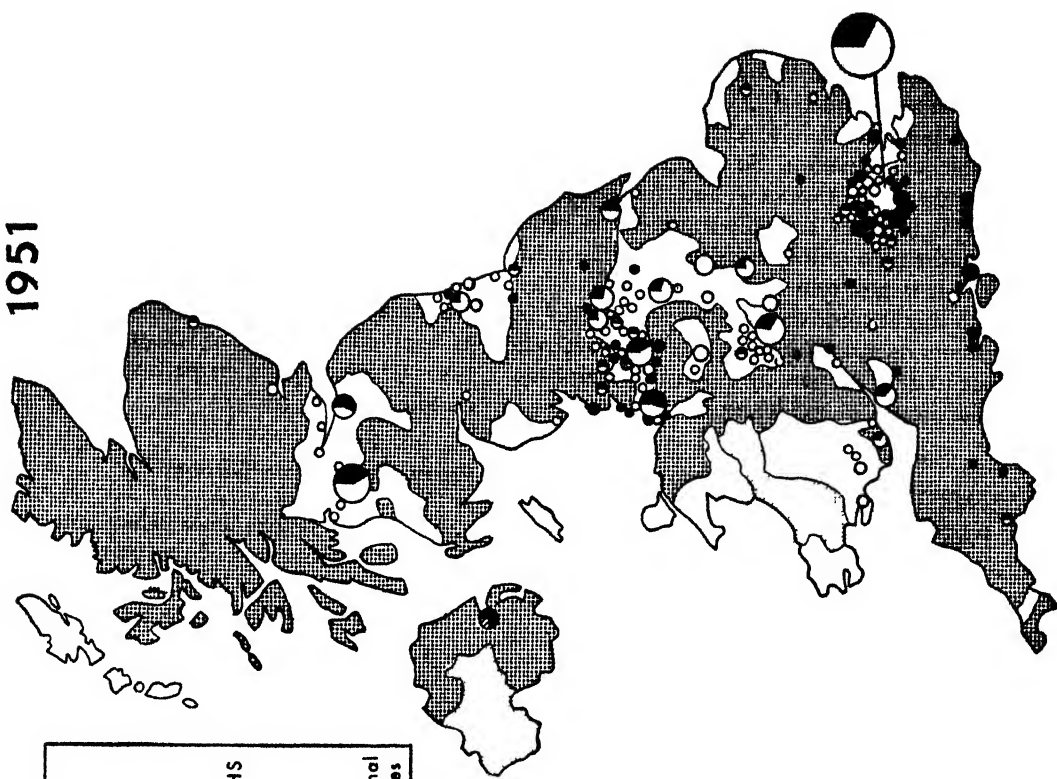
Two radically different conclusions have been drawn, however, at least by Labor strategists, from the widespread distribution of strength of both the major parties throughout the country. The more customary view is that this makes it necessary to espouse moderation and to propose programs that will secure wide popular support. But fiery socialists, like Aneurin Bevan, maintain that it is the very moderation of the Labor program which permits the Conservatives to make inroads into working class and lower

# GEOGRAPHY OF BRITISH ELECTIONS

1950



1951



middle-class areas. This group believes that a more radical program would consolidate urban and rural labor (which, after all, form the majority of the population in Great Britain) into an unbeatable combination. So far, there is little evidence to support this view, and the group carries weight in party councils more by its vehemence and single mindedness than by its numbers. Yet it is far from impossible that such an approach might some day be more influential in Labor councils, particularly if the Conservatives continue to gain support by espousing their own particular brand of moderation.

#### IV. EFFECTIVENESS OF THE BRITISH PARTY SYSTEM

By now it should be possible to hazard certain answers to the questions asked on page 40.

##### *Choice of Candidates and Policies*

In the first place, certain critics would charge that the choices offered by British parties are narrow and unnatural. Human interests and human desires, they would point out, are almost infinite in their diversity; to force them all into one of two molds is to destroy the representativeness of the system and to oblige people to vote, not in favor of a program for which they feel genuine enthusiasm, but against the program which they dislike the more. Particularly among the middle classes, men complain that they are compelled to choose between a party pledged to the interests of big business and a party pledged to the interests of organized labor, and that such a choice is a mockery.

Paradoxically, other critics would make exactly the opposite complaint. Extreme Conservatives and Laborites protest that the programs of the two parties, in appealing for the uncommitted voter in the middle, have become so similar that each has sacrificed its essential beliefs and made any real choice impossible. Left-wing Laborites, as suggested, feel that their party is too lukewarm in its socialism, that it makes too many concessions to the middle-class element, and that left-wingers are compelled to vote, on election day, not for the radical program they would prefer but for a milk-and-water reform-

ism which completely misrepresents their attitude. Similarly, many an old-line Tory of the vintage of Colonel Blimp finds himself horrified at the Conservative Party's movement toward a collectivist program. Yet, since there is no way in which he can vote clearly and unmistakably for the old England of the ruling classes and the vested interests, he votes reluctantly for a program in which he does not believe. Both of these groups would charge, in short, that everybody in England is obliged to accept the kind of program which appeals, in particular, to the lower middle classes.

##### *Party Representativeness*

Another paradox arises when one questions the representativeness of the parties. As already noted, it is the extremists and the militants—that is, voters who are not typical of the electorate as a whole—who are most likely to join a party organization. Thus the party which is most representative of its rank and file is less likely to work out a program which is representative of the community in general: in this sense, extreme democracy inside the party may be a handicap to democracy outside, and the giving of authority to a party's leaders may actually increase the representativeness of the party's program. For it is the extremists who find it most difficult to compromise and who are most willing to take a noble, unyielding, and doctrinaire stand. But the responsibilities of the party's leaders are considerably broader. They are expected to lead the party to victory, and for this they have to win the support of those who are not party members. The party members will vote for them anyway: they have nowhere else to go. It is the uncommitted voter who must be won. Thus the party's leadership is more concerned with finding a program which can attract the support of the community in general, and it will stop only at that point where a loss of enthusiasm on the part of party workers will provide a counterbalancing threat to success in the election.

##### *Intra-Party Organization*

It is natural, however, for members of both great parties to complain about the lack of



democracy in party organization: in the Conservative Party, it is charged, the Leader and his chosen associates make the crucial decisions and the rank and file are free only to cheer and to "recommend"; in the Labor Party, it is charged, the trade union bosses dominate the Conference and the parliamentary Leader is free from effective party control. No system, say the complainants, so undemocratic in its foundations can possibly be democratic in its results.

To some extent, the Labor Party has worked out a more democratic solution than the Conservative. Through the mechanism of the party Conference, the rank and file have an opportunity to challenge party policy, to cross-examine party leaders, and to take part in a vigorous debate which has a powerful psychological influence. At the same time, through its control of the less active but more numerous trade union votes in the Conference and through the relative freedom of the Parliamentary Labor Party, the leadership can, in the most important cases, prevent the party from taking action which would alienate a large number of uncommitted voters. Thus the leadership is held responsible to the rank and file of the party not in the sense that it is likely to be outvoted but in the sense that it is forced to listen to criticism and to justify its policies.

In the Conservative Party the balance is somewhat less satisfactory: the personal power of the party Leader is far greater, the prestige of the party Conference is less, and the leadership never undergoes the kind of cross-examination or participates in the kind of stinging debate which characterizes a Labor Conference. Yet it is possible that the decision of the Leader, in many cases, is closer to the opinion of the mass of voters who support the Conservative Party than is the judgment of a party Conference.

### **Inter-Party Compromise**

Perhaps the greatest advantage of the British party system, as a two-party system, is the extent to which it facilitates political compromise. Some observers, both native and foreign, have considered Great Britain a likely prospect for class war and violent revolution on a Marxian pattern. Nowhere else had industrialism developed so extensively or the class system been

carried so far, and nowhere else was it possible to find the bulk of the people falling into such distinct and innately hostile classes: workers on the one hand and "exploiters" and their retainers on the other.

Yet the underlying assumption of democracy is that free men can find a peaceful solution of their differences, determining what reforms are necessary and carrying them out without resort to violence and in such a way as to satisfy, not just a bare majority, but the good sense of the preponderance of the community.

What strikes the foreign observer of British party politics is the extent to which both parties, in appealing to the voter who is not pledged to either party, have had to moderate the fury and the prejudices of their own extremists and, by so doing, to work out a program which is far less distasteful to the opposition. Labor can find in the Conservative program many points with which it agrees, even if the program does not go far enough and shows too much tenderness for vested interests. And the Conservative can find in Labor's program a moderation and a respect for common sense and constitutional procedure, not to mention a similarity to some of the points in his own program, which make him more willing to put up with a socialist government and far less likely to turn to desperate resistance. Few people would prefer a class war, however beautifully and clearly defined the distinctions between the two parties, to this type of adjustment.

### **Party Effectiveness**

One last paradox concerns the effectiveness of each party in carrying out its program, for here too a restriction on democracy within the party may be said to contribute to democracy on a national plane. The high degree of party discipline, as exercised over Members of Parliament and also over constituency organizations, often leads to charges of intra-party dictatorship; yet it is only a disciplined party which can insure that the promises given the voter by the party's leaders (promises which presumably have attracted the voter to support the party) are going to be carried out. Freedom for each party representative to follow his own conscience or whim may mean the failure of the party as "an effec-

tive instrument for carrying out the judgment of the voters once they have made a choice of parties."

In making the parties such an effective instrument, the two-party system performs an essential function. The voter could make a more accurate choice and one closer to his own ideas if there were a greater variety of major parties representing each gradation from reaction to revolution. But there would be no guarantee, and in fact the probabilities would be all against the possibility, that any one party would receive a majority of the seats in the House of Commons and thus be in a position to carry out its program. Accordingly, the voter would never have the satisfaction of voting for a definite program but instead would be voting for a party whose general attitude pleased him. Moreover, it would be harder for the voter to choose among the parties, for their records would be more obscure; no party would exercise control, and no party could be blamed or praised for what resulted. Under a two-party system, however, so long as a party is well-disciplined, responsibility cannot be evaded. If a party has a clear majority, it has no excuse for not carrying out its program. But without a clear majority, even the clearest program is meaningless because the party lacks the strength to put it into effect. Thus one runs into the paradox that clarity of choice must be modified in the interest, not only of compromise, but even of giving the voter any choice at

all. For the only effective choice the voter can have depends upon reducing the principal positions to two.

### **Conclusion**

By this time it should be evident that many of the criticisms made of the British party system cancel one another out, and that it is impossible for this system, or any system, to meet some of the criteria of an effective and democratic system without simultaneously departing from others. In achieving a balance of the various desiderata, however, the British have not been unsuccessful. The choice presented to the voter, even if a moderate one, is clear and real, for there are significant differences in the programs, similar though they may be in many respects. Moreover, the programs, in attempting to attract as many voters as possible, tend to be representative of the desires of the electorate as a whole even when they depart from the desires of the most militant party members. In neither party do the rank and file have direct control over the decisions of their leaders; but in both parties, and especially in the Labor Party, channels have been developed for applying great pressure upon them. And finally, the two-party system, by insuring that one party will win a majority of the seats in the House of Commons, provides that party with the effective power to carry out the program the voters have approved.



## CHAPTER 4

# The British Parliament

### I. THE HOUSE OF COMMONS: REPRESENTATION

~~The House of Commons is that part of the British government which, more than any other, is expected to represent all the elements and parties which make up the British people. But "representation" and "people" are both vague words, and once the members of the House of Commons have been elected, two questions arise: what is it that these members represent, and how well do they represent it?~~

To some political theorists the answer to the first question is very simple. The House of Commons, they say, should be the nation in microcosm. The people as a whole cannot come together in a single assembly to legislate for themselves. If their representatives are to do this for them, they should constitute a reflection of the nation in miniature, with all its occupations, parties, and interests represented exactly in proportion to their strength in the country as a whole.

The real House of Commons, it must be admitted, is very far from meeting any such standard. In a perfectly representative House, in this sense, the overwhelming majority of the members would have had little schooling beyond the age of fourteen; comparatively few would be professional men, industrialists, or trade union officials; large numbers would be domestic servants, factory workers, housewives, clerical workers, salesmen and saleswomen. More than half the members would be women (in 1945 twenty-five women were elected, in 1950, twenty-one, and in 1951, seventeen—that is, 3 to 4 per cent).

### *Members of Parliament*

#### EDUCATION

In the real House of Commons the average Member of Parliament (M.P.) has had far more, and far more expensive, education than the average voter. According to Mr. J. F. S. Ross, who has made the most elaborate study of the membership of the House of Commons, only 2 per cent of the adult population have been educated in the exclusive "public schools"; between the two wars, however, something over half the Members of Parliament had had a "public school" education. More than 90 per cent of British adults had their only education in elementary schools, but less than 25 per cent of the M.P.'s were similarly limited. Eton and Harrow, in particular, were enormously overrepresented, the former having more than 500 times, and the latter almost 450 times, as many representatives as its numbers in the voting population would warrant. (Even in the 1950 election 84 Etonians went to Parliament, 79 as Conservative members.) Similarly, on the university level, the man who had been to Oxford had 180 times, and the man who had been to Cambridge 140 times, as good a chance of becoming an M.P. as the ordinary citizen. In the future, if Labor maintains its electoral strength, this overrepresentation will be reduced; but even in Labor's ranks today there is a disproportionate number of those who have had an expensive private education.

#### OCCUPATION

There is also an interesting occupational divergence from the composition of the British population in general. In the average prewar

House of Commons, according to Mr. Ross, there were 56 members who were not gainfully employed—mostly Conservative M.P.'s living on their incomes; 200 professional men (two-thirds of whom were lawyers); 139 company directors; 69 men engaged in commerce or finance; 76 who were in the public service including the armed forces; and, at the other extreme, 79 trade union officials and 125 workers, including 43 miners, 20 metal workers, 15 textile workers, and 13 printers. Officers of the armed forces and stockbrokers had 80 times their numerically appropriate representation, while journalists had more than 60 times, professional men almost 12 times, printers almost 4 times, and miners almost twice the numbers to which population would entitle them.

The victory of the Labor Party in 1945 was reflected in the presence of a higher proportion of professional men. Thus the first post-war House of Commons contained 83 lawyers, 56 teachers and lecturers, 51 officers of the armed forces, 46 members engaged in commerce and finance, 45 miners, 41 journalists and authors, 36 clerks and secretaries, 27 trade union officials, 24 manufacturers, 18 metal workers, 17 former civil servants, 16 farmers, and 14 physicians and surgeons. The great majority of the officers (46), farmers (11), and former civil servants (11) were Conservatives; but all of the miners, trade union officials, and metal workers, and the great majority of the teachers and lecturers (49), journalists and authors (31), clerks and secretaries (30), and physicians and surgeons (10) were Laborites. The lawyers were almost evenly divided between the two parties.

In 1950, the pattern was not dissimilar. There were the same number of officers of the armed forces as in 1945, all but 2 of them Conservative; 25 farmers, all but 2 of them also Conservative; 10 land agents, of whom 7 were Conservative; and 18 former civil servants, of whom 13 were Conservative. All 9 stockbrokers in the 1950 House of Commons were Conservative, as were 30 of the other 47 members engaged in commerce and finance. The 35 miners were all Laborites, as were the 16 metal workers, 11 railroad men, and 5 wood workers. Similarly, 39 of the 43 teachers and lecturers, 27 of the 46 journalists and authors, and 27 of the 32 clerks and secretaries were Labor. Where

7 of the 10 engineers were Conservative, 6 of the 10 physicians and surgeons were Labor. The Conservative emphasis on paid political agents (see p. 62) was reflected in the fact that 7 of the 9 political organizers elected to the House were Conservative. The number of lawyers increased to 108, 60 of whom were Conservative and 48 Labor.

The Conservative victory in 1951 restored something of the old position of the financial, commercial, and industrial group, though the professions remained well represented. About 40 members were not gainfully employed and thus presumably had private means. There were 84 company directors, all but 4 of them Conservative; and 50 in commerce, finance, and manufacturing, all but 11 of them Conservative. Of the 21 officers, only 3 were Labor; all but one of the 15 landowners and all of the 19 farmers were Conservative. The lawyers were divided more evenly between the two major parties, 51 of the 85 being Conservative and 34 Labor. Among other professional groups, 47 teachers, lecturers, and professors were elected, all but 4 being Labor; 10 doctors, of whom 7 were Labor; 38 journalists and authors, 29 of them Labor; 14 engineers, all but 2 of them Labor; 5 former civil servants, of whom 3 were Labor; and 3 clergymen, all Labor. All the 89 workers, including the 33 miners and 22 railwaymen, were Labor, as naturally were the 15 trade union officials. No farm workers, it may be noted, were elected to Parliament at all.

The difference in composition of the Conservative and Labor parties illustrates one of the most interesting changes in the character of the House of Commons. Before the great extension of the suffrage in 1867 and later years and before the rise of the Labor Party, most of the members of the House of Commons were gentlemen of means. Some of them received their income from landed property and some from commerce and industry, but both types were present in both parties and they were almost uniformly the products of a similar education and a similar way of life. Many of the members were related to members of the opposing party, and political opposition was mitigated by a common class background and code of conduct. A by-product of the predominantly wealthy membership was that salaries for members were not introduced

until 1911 (they now stand at £1,000 a year) and that there are still no offices for Members in the Houses of Parliament. Thus the visitor often sees M.P.'s sitting on the stone benches in the ante-chambers dictating to their secretaries.

The rise of Labor, however, has introduced into Parliament something of the class division which prevails in the rest of the nation. The Conservative benches still look like the old House of Commons, but Labor's contain many manual workers who have themselves known economic hardship and who have had little education and little time to acquire the refinements of life. Especially in the days when the middle-class element in the party was small, observers used to notice that there was a physical difference between the two parties as the tall and well-nourished Conservatives filed into their lobby to vote and their shorter and less privileged opponents filed into theirs.

So striking a class distinction seemed at first to offer a challenge to the survival of the parliamentary tradition of peaceful discussion and compromise. Much of Parliament's effectiveness had depended on the mutual respect and friendship, the common code of manners and, to a large extent, the common political aims which were fostered by a common class origin. It was long popular to say, with Lord Balfour, that parliamentarism was a form of government in which people were so thoroughly in agreement on fundamentals that they could safely afford to bicker. But as the House of Commons came to include men who differed widely not only in education and occupation but in class origin and political philosophy, it was natural to wonder whether the children of privilege and the children of want and deprivation were not in such disagreement on fundamentals that parliamentary government was doomed.

Such fears have proved excessive, for on at least one fundamental the two leading parties are in agreement. Both accept the parliamentary system itself; and that system assumes that while the voters may put in power any party they choose, the party in power must allow its opponents full freedom to criticize, to organize, and to persuade the voters to vote in its favor at the next election. Neither party fears that its opponent will try to suppress it, and neither

party feels any need to resort to violence either to achieve power or to preserve its existence.

#### PRACTICAL EXPERIENCE

Another important consequence of the occupational distribution is the fact that many members of the House of Commons have had some direct personal experience with many of the problems which are discussed by that body. In the American Congress most of the members are lawyers, and it is obvious that the duties of the lawyer and those of the legislator are easily combined; yet in the House of Commons lawyers form less than 20 per cent of the membership. Organized interests in Britain do not limit themselves to attempts to *influence* Members of Parliament; they see to it that some of their own members become Members of Parliament. Where the C.I.O. and the A.F. of L. in America let rival candidates compete for their support or, in the case of the C.I.O.'s Political Action Committee, throw their support behind candidates of sympathetic views without expecting them to be trade unionists themselves, the British trade unions have their own members sitting and voting in the House of Commons and able to contribute their personal experience as miners or metal workers or transport workers. And where the National Association of Manufacturers in America usually brings pressure to bear on Congressmen after they have been elected, the Federation of British Industries has its own members sitting in the House of Commons, as do the National Union of Ratepayers' and Property Owners' Associations, the National Farmers' Union, the National Union of Teachers, the British Medical Association, the Central Landowners' Association, the Newspaper Proprietors' Association, the Co-operative Union, and the Brewers' Society, not to mention those members who come from the armed forces, the banks, and the insurance companies. When a technical subject like the condition of the cotton industry is discussed, both the workers and the factory-owners are on the floor to take part in the debate. Party discipline, it is true, generally is strict enough to oblige party members to vote with the party even when its decision runs contrary to the desires of the pressure groups they represent or to their own personal interests; and the pressure group which is to be

effective must concentrate on influencing the Cabinet rather than individual Members of Parliament. But the House of Commons prides itself on the special attention it renders speeches based upon personal knowledge and experience, and the presence in the House of men having expert knowledge on a great variety of subjects means that legislative proposals which are carelessly or inexpertly prepared are subject to devastating criticism.

### *Representation of Political Parties*

It is comparatively easy to justify a Parliament which diverges noticeably from the rest of the country in occupational distribution and even in age, for there is no reason why all doctors, or all men between twenty and thirty, should think alike on foreign policy as distinct from all miners and all men between fifty and sixty. Furthermore there are many qualities desirable in the Parliamentarian—education, experience, intelligence, and the ability to speak persuasively and logically and to judge the merits of conflicting arguments—which are more characteristic of certain occupations than others. If it is desirable to have representatives from all walks of life who know at first hand the sufferings and problems of different classes, few people will find it a serious defect that there are not more domestic servants in the House of Commons or that there are so many professional men.

It is not so easy, however, to justify Parliament's failure to represent the different political parties in exact proportion to their strength in the country. After almost every election loud complaints are made that parties are not represented in the House of Commons in exact proportion to their popular vote. In 1935, for example, the Conservatives and their allies won 70 per cent of the seats in the House of Commons, but they received only 54 per cent of the popular vote. By themselves (without the support of allied parties) the Conservatives had less than half the popular vote but more than 60 per cent of the seats. Labor, on the other hand, with almost 40 per cent of the popular vote, had only 25 per cent of the seats, and the Liberals with something less than 7 per cent of the vote had only 3 per cent of the seats. The Labor Party and the Liberals together had almost half the

popular vote, but they could always be voted down in Parliament by a margin of almost three to one.

In 1945, in contrast, it was Labor's turn to win a strong majority of Parliament (62 per cent of the seats) with just about half of the popular vote, while the Conservatives and their allies, with just over 40 per cent of the vote, had a little more than one-third of the seats. The Liberals had 9 per cent of the votes and not quite 2 per cent of the seats.

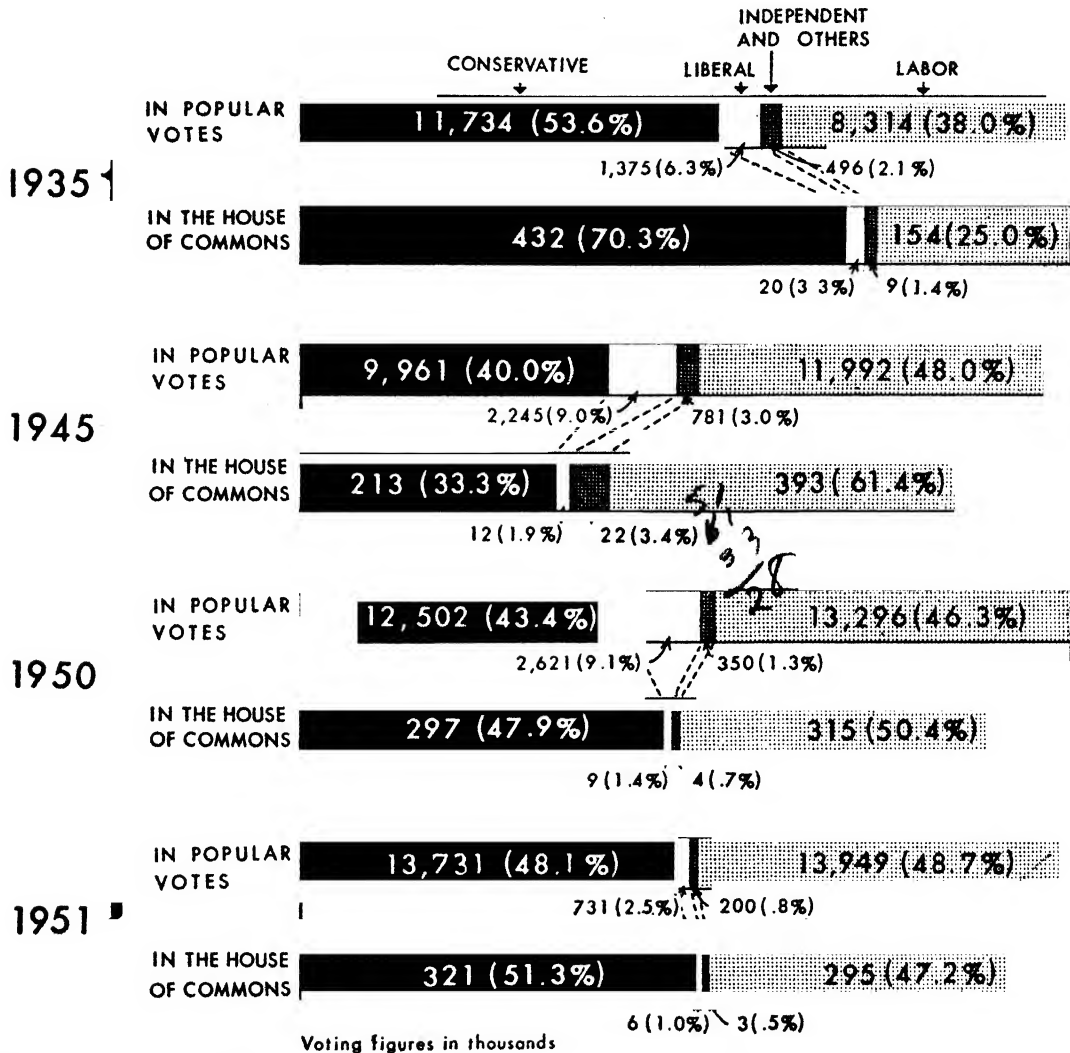
At first sight, the results of the 1950 election seemed to contradict what was becoming accepted as a rule of political representation: that parties would be represented in Parliament by a considerably higher proportion than was justified by their popular vote. This rule has even been put in mathematical terms: the ratio of seats won by the parties can be expected to be the cube of the ratio between the votes cast for them; that is, if 600 seats are divided between two parties, each 1 per cent lead in votes by one of the parties can be expected to result in a majority of 15 to 20 seats in Parliament. The election returns of 1931, 1935, and 1945 almost exactly fitted this formula. But 1950 seemed a different story. Labor with 46.7 per cent of the votes secured 315 seats, and the Conservatives with 43.3 per cent of the votes secured 298. Thus a lead of 3 per cent in votes yielded only 3.6 per cent more in seats, an arithmetic rather than a geometric ratio.

Did this mean, then, that election returns in the future were likely to be a more exact reflection of the popular vote? Far from it. What it meant is that in calculating the ratio of the majority of votes cast to the majority of seats won, a further element has to be taken into account: the heavy concentration of Labor votes in certain areas. For Labor wastes more of its strength in piling up huge majorities in safe seats than do the Conservatives with their relatively more evenly distributed strength. This is not a new element, but it became more influential in the 1950 election than ever before because of the redistribution of seats (p. 61). It means, in effect, that Labor must poll about half a million or 2 per cent more votes to secure the same number of seats as the Conservatives. Thereafter, the same distortion in the ratio between the major-

ity in votes and the majority in seats can be expected to operate for Labor; while for the Conservatives, the original calculations will continue to operate. Dramatic evidence of these facts was given by the election results of 1951<sup>1</sup> when

321 seats in the House of Commons where Labor only won 295 seats. Thus the concentration of Labor votes in certain areas made it possible for the Conservatives to win the election though they polled 200,000 fewer votes.

### COMPARATIVE STRENGTH OF POLITICAL PARTIES



the Conservatives polled only 48.1 per cent of the votes to Labor's 48.7 per cent yet secured

<sup>1</sup> That the 1950 election distorted the results of minor parties as much as earlier elections is indicated by the fact that the Liberals secured 9.1 per cent of the popular vote but only 9 seats, that is, 1.44 per cent of the seats in Parliament. In 1951 the distortion was less serious as the Liberals polled only 2.5 per cent of the popular vote and received 6 seats, that is, .96 per cent.

### CAUSES OF ELECTORAL DISTORTION

There are two further causes for disproportionate party representation in Parliament: the fact that the Liberal Party, while no longer a major party, still polls a large number of votes in some constituencies, and the prevalence of single-member constituencies in which the vic-

torious party gets all of the representation and the defeated parties none.

The existence of three parties, first of all, means that there are many triangular contests, and that it is quite possible for a candidate to win a seat in Parliament without getting a majority of the votes. In an extreme case in 1945, in the constituency of Caithness and Sutherland, the Conservative candidate received 5,564 votes, the Labor candidate 5,558 votes, and the Liberal candidate 5,503 votes. Barely one-third of the electors voted Conservative, but the Conservatives received 100 per cent of the representation. The two-thirds of the people who voted against the Conservatives received no representation at all. In 1945, more than one-third of the Members of Parliament were elected by a minority of the votes cast in their districts. In 1950, 187 candidates were similarly elected by a minority vote. In 1951, with a smaller number of Liberal candidates, only 37 were elected on minority votes: 23 Conservatives, 13 Labor, and one Liberal. Even if the Liberal Party should disappear, however, the House of Commons would not be a perfect picture of the nation's political loyalties. In some constituencies, the winning candidate barely slips through (both in 1945 and 1950 candidates won by fewer than 100 votes in seven constituencies and in 1951 in four, and in thirty-eight others in 1945 and 1950, and forty others in 1951 the majority was less than 1,000). Yet the strong minority in these cases has no direct representation.

#### PROPORTIONAL REPRESENTATION

Because of such discrepancies, some people urge a system of proportional representation according to which each party would receive its just percentage of representatives in the House of Commons. In this way there would be no possibility of repeating the overwhelming majorities of the past, and the largest party, in trying to persuade at least some of its opponents to go along with it, would have to modify its proposals to meet the desires of a much larger section of the population. Critics point out that there is nothing particularly democratic in having two disciplined and hostile armies confront each other in Parliament, and suggest that if one of these armies can always command a

majority, discussion and compromise, which are the basis of democracy, are likely to disappear or to lose their meaning.

Yet in some respects the present system encourages compromise. The man who represents a constituency in which there is a powerful opposition is likely to work to moderate his own party's program in order to attract these voters and make his own seat safer. In addition, the man who represents, under proportional representation, only the voters of his own party is far less likely to compromise than the man who must try to work out a program which will appeal to a variety of groups—indeed, if he shows signs of compromising, the party's militants are likely to revolt against him for lukewarmness in their defense. Thus proportional representation would make the opposing parties even more hostile and uncompromising.

There is another weakness in the argument for proportional representation. No government can be effective if it is subject to defeat at any moment, and no coherent program of legislation can be planned if the legislature is likely to reject vital parts of the plan. It was no accident that both times, in the period between the two wars, when there was no clear majority party in Parliament, the Cabinet fell after a comparatively short period and new elections had to be called.

In fact, it is one of the proudest boasts of the British that their parliamentary system provides effective government. Thus there was no rejoicing in 1950 that Labor's 3 per cent majority in popular votes was reflected in a similar majority in seats in Parliament; nor that the Conservatives did not secure a stronger majority in 1951. On the contrary, it was feared in both cases that the slim majority would result in constant stalemates. Though this prophecy was hardly realized in practice, the preference for strong parliamentary majorities continues. Not only do the Labor and Conservative Parties each hope for a decisive parliamentary majority in ensuing elections; the country at large is equally eager that such will be the result. Thus except for the Liberals with their perennial pleas for proportional representation, few people in Great Britain would wish to change the present electoral system.

### ***The House of Commons and Representation***

The problem of how representative the Members of Parliament are in their own persons is less important than the problem of who it is they represent. One of the perennial questions of political theory turns on the question of whether a representative should follow his own judgment and conscience, the opinion of the district which elects him, his national party leadership, the pressure groups which had a share in electing him, or some other interest or entity. But to answer this question, one first must know what Parliament does, what qualities are necessary for it to act effectively, and how, in practice, its members themselves tend to answer this question.

## **II. THE HOUSE OF COMMONS IN ACTION**

### ***Ceremonies***

The average American visitor is likely to be deeply impressed by the amount of ceremonial in the House of Commons. Every day, as the House convenes, the Speaker in wig and gown marches in in solemn procession to the shout of "Hats off, Strangers!" With him go the chaplain in his robes, the sergeant-at-arms bearing a sword, and the mace-bearer with the mace (a long staff, decorated with gold leaf and topped by a gilded crown—a much venerated symbol of royal protection, which Cromwell once referred to as "that bauble"). The Speaker ascends his canopied throne, the chaplain reads the 67th Psalm and three short prayers, the doorkeeper shouts "Mr. Speaker at the Chair," the mace is laid on the table (indicating the House is in session),<sup>2</sup> and as those members who feel less need of divine guidance stream into the room, the House begins the business of the day.

Such occurrences are a daily event. When a new session of Parliament opens (generally once a year), there are additional ceremonies. Before a Speaker is elected, the Commons, as they assemble, are summoned by the "Gentleman Usher of the Black Rod" (a messenger from the

House of Lords bearing an ebony rod with a golden tip) to come to the Lords' chamber. There they are directed by Lords Commissioners in scarlet robes and cocked hats to proceed to the election of a Speaker. The Commons then troop back to their own House, elect their Speaker if it is a new Parliament (see p. 79), and report their choice. Finally, Black Rod summons them again to hear the speech from the throne—a speech which, in appearance, is solemnly delivered by the King to his loyal subjects in Parliament, telling them what his policies will be during the coming sessions and what legislative action he shall ask them to take. In reality, however, as everybody knows, the speech is prepared for the King by his Cabinet and represents its plans and policies, not his. Nonetheless, the Commons return to their own chamber to debate in all seriousness a motion returning "humble thanks" to His Majesty for his "Gracious Speech."

Before the discussion begins, one more tradition must be complied with: the House must listen to the first reading of a bill "for the more effectual preventing Clandestine Outlawries"—not because the danger of clandestine outlawries is so great that action must be taken before the King's message can be attended to, but as a sign that the Commons have the power in their own right to proceed with legislation without the King's recommendation. In fact, so slight is the pressure for the bill that it is then and there abandoned, to be introduced again in the identical form at the beginning of the next session. The House in the meantime moves on to debate the reply to the "Gracious Speech."

### **CUSTOMS OF DEBATE**

During its debates there are certain characteristic customs which the House observes. Members never address one another directly or call one another by name. All remarks are addressed to the Speaker, and other Members are referred to as "the honorable Member for South Hackney" or the "honorable Member for Bootle" or whatever the Member's constituency happens to be—unless, indeed, there is some additional distinction. Members of the Cabinet and of the Privy Council are referred to as "the right honorable gentleman, the Member for Limehouse," or Woodford, or Warwick and Leamington.

<sup>2</sup> While Parliament is in session the flag flies from the Tower and at night a light shows.



Lawyers are "honorable and learned" gentlemen, officers are "honorable and gallant," and lords and ladies are "the noble lord" or "the noble lady."

Whenever a new Member makes his maiden speech in Parliament, he humbly asks the forbearance of the House, and at the close of his speech the next speaker (who is generally a member of the opposing party) congratulates him on the success of his effort, assures him that, although he does not necessarily agree with all of it, he has listened with great interest, and expresses the hope that there will be many times in the future when the House may have the pleasure of hearing him on subjects in regard to which he has special competence. Similarly, when a new cabinet minister makes his first speech, the next speaker for the Opposition congratulates him on his appointment and on the success of his speech before he proceeds to attack the points which the minister has just made.

When the debate is over, the House of Commons also has its peculiar way of taking votes. If there is any doubt in the Speaker's mind as to where the majority lies, or if the minority demands a "division," bells are rung and the policemen in the lobbies and corridors shout "Division." After two minutes the Speaker puts the question again, two tellers come forward from each side, and the Members rise from their places and march into the lobbies. Those who vote "aye" go into one lobby and those who vote "no" into another. Six minutes are allowed for late arrivals from smoking room, writing room, restaurant, and corridor. Then the doors are locked, the Members are identified and counted, and the tellers come forward to report the result to the Speaker, those representing the majority standing on the right facing the Speaker and those representing the minority on the left.

#### THE CASE FOR "QUAINTNESS"

To foreigners the daily ceremonial, the pageantry of the opening session, the trooping back and forth in response to the summons of Black Rod or to the cry of "Division," the fictions concerning the King's speech, the exaggerated courtesy with which Members are referred to, and even the invariability with which all maiden speakers, good and bad alike, win the compli-

ments of the House—all these are likely to appear either quaint or ridiculous, and in either case useless.

Nothing could be further from the truth. The ceremonial and courtesy have a tremendous influence upon the work of the House—an influence which can be understood by anyone who has read Hitler's contemptuous description of his visits to the Austrian Parliament in *Mein Kampf*. For no Parliament can retain the respect of its people—and indeed no Parliament can transact business—if it is in constant uproar, with members hurling insults at their opponents across the floor, with the Opposition determined to do everything possible to disrupt a sitting and to block the Cabinet's program, and with hatred and bitterness making impossible any achievement of the democratic ideal of government by discussion, co-operation, persuasion, and reasonable compromise.

The elaborate ceremonial and the exaggerated deference and courtesy contrive to impress the member and to introduce into his attitude an element of respect and even awe which keep him from indulging in disrespectful or disorderly conduct. On the first day of a new Parliament the occasion is seized, while electing the Speaker, to warn new Members of the conduct expected from them in the House. So greatly do the ceremonial and pageantry exalt the authority of the Speaker that ordinarily a gesture from him is enough to quiet the House. If a disturbance breaks out, the Speaker simply rises from his seat, and the bickering Members subside and seat themselves. If one of them continues to be obstreperous, the Speaker "names" him, and the House (including his own party) votes immediately for his expulsion. Older members of the House like to talk of times when its peace was shattered by strange and shocking episodes, when Speakers were shouted down or members engaged in fisticuffs. But it is because of their rarity that such memories are cherished. The "quaint" and "ridiculous" proceedings make for an order and efficiency which are, or ought to be, the envy of more modern and rationally organized bodies. Even the parading through the lobbies to vote has been praised for its power to soothe ruffled tempers and to cool off the House when feeling is running high.

This does not mean that the discussion is a



lukewarm, milk-and-water affair. Courtesy and formality are thoroughly compatible with aggressiveness, sharpness, and vigor; and understatement can be as telling as overstatement. The art of the graceful taunt has been highly developed, together with the art of the witty but cutting rejoinder. Moreover, Members are aware that the eyes, if not of the country, at least of the press are upon them, and when they wish to hit, they hit hard. The fact that they call one another "honorable" and congratulate one another on their delivery does not prevent the most vigorous criticism—yet it keeps the debate on the level of rational discussion and good humor and prevents it from degenerating into a purposeless row.

### *The Speaker*

To understand the role of the Speaker of the House of Commons, it is just as well to forget about the Speaker of the American House of Representatives. In the United States the Speaker is a leader of the majority party of the House of Representatives. Once elected, he continues to be a leader of his party and to help in winning the approval of the House for its program. He takes part in conferences on party strategy, and he may use his powers to favor his own party.

In Great Britain, in contrast, the Speaker's prestige depends upon his impartiality. When a new Speaker is chosen, he is placed in nomination, it is true, by the majority party's leaders; but he is proposed because he has not been an active partisan during his service in the House, and ordinarily he has already prepared himself for the office by presiding over the House in Committee of the Whole or over one of its committees. The Opposition is always consulted before his name is proposed, and if the Opposition objects, his name is withdrawn.<sup>3</sup> Once elected to the Speakership, he rises above the parliamentary battle and breaks his ties with his own party. If a new election results in a victory for

the Opposition, he continues in office (where, in America, he would be replaced); and he is proposed for re-election by the leaders of the party to which he does not belong. In fact, once chosen, the Speaker retains his office until death or voluntary retirement.

For a long time, there was also a tradition that the Speaker of the House of Commons should be re-elected to the House of Commons without opposition. In 1935, and again in 1945, however, the Labor Party, in order to maintain its local constituency organization in a condition of vitality, contested the re-election of Conservative Speakers in their own districts, but with notable lack of success. In 1950, no official Labor candidate opposed the Speaker, and an Independent Labor candidate who ran against him was overwhelmingly defeated. It seems, therefore, that the electorate is as determined to maintain the tradition that the Speaker should be re-elected to the House as the parties have been to maintain the tradition of re-election within the Chamber.

It is difficult to exaggerate the importance of the Speaker for the functioning of the House of Commons. He regulates debate through the power to select amendments; protects minorities, since closure of debate requires his approval; maintains strict adherence to the Rules, and develops a sort of case law of procedure through his rulings. In the words of Colonel Douglas Clifton Brown in 1945: "As Speaker, I am not the Government's man, nor the Opposition's man. I am the House of Commons' man and I believe, above all, the back benchers' man." As the Executive has become more and more powerful, the Speaker has stood out ever more prominently as the defender of the rights of the House, sometimes, as Gladstone once said, defending the House against itself. At a time when party discipline controls voting so rigorously, the Speaker's encouragement of wide-ranging discussion is the most important means of assuring that Parliament fulfills its primary function of airing all aspects of an issue.

### *The Whips*

The effectiveness of the parliamentary system is almost as dependent upon the party whips as upon the Speaker. It is the business of the whips

<sup>3</sup> An almost unprecedented contest over the election of a new Speaker took place in 1951 after the Conservatives were returned to office. The Labor Party did not object to the Conservative candidate for the office but proposed that the former deputy Speaker was more suitable because of his greater experience. The House voted on the candidates and the Conservative nominee was elected.

of each party to keep in touch with party members, to inform them what business is coming up and when a vote is going to be taken, and to see to it that they are present to vote as their leaders want them to. The chief whip of the majority party is the Parliamentary Secretary to the Treasury (sometimes still referred to as the "patronage secretary," although patronage is not what it once was). Three or more "Lords Commissioners of the Treasury" assist him, as do the Comptroller and the Vice-Chamberlain of the Royal Household. All of these officials draw a salary from the government, and there may, in addition, be a number of unpaid whips. Opposition whips work without official pay.

Reputation to the contrary, it is more important for the whips to be tactful, sympathetic, observant, and likeable than to be fierce. They must know what the private members are thinking and who the rising young members of their party are. They must know what the Opposition is likely to do next and what tactics will be most successful in getting business through the House with the least expenditure of energy and risk of embarrassment. They try to keep the members in line through good temper and reasonable appeals rather than threats and a display of force; but they also know how to suggest to the erring member the perils of party unorthodoxy. And they are the principal channel through which the party's leaders learn of the feeling of the rank and file.

The word "whip" is also used for the notice sent to each party member listing Parliament's business for the week. If an item in this list is not underlined, there is no special reason for the member to be present: and if it is underlined only once, the matter is not very pressing. A "two-line whip," however, means that the business is really important; and if an item is underscored three times, nothing short of illness should keep the member away when the vote is being taken: the party whips will be watching, and absence or a failure to vote will be regarded as a serious sign of disloyalty.

#### INFORMAL AGREEMENTS

Gladstone once commented that the British Constitution "presumes more boldly than any other, the good faith of those who work it."

And it is, in fact, chiefly through voluntary and informal agreements, based on this good faith, that the House decides on its business and gets it done. What efficiency the House has is mainly the result of the ease with which the opposing parties enter into arrangements "behind the Speaker's chair" and "through the usual channels" to determine what shall be discussed, when it shall be discussed, and how much time shall be allotted to the discussion. Any breakdown of this system of voluntary agreement would be fatal to the working of the parliamentary system as a whole.

Under this method of arranging matters informally, the whips of the opposing parties (who are the "usual channels") consult with the leaders of their parties and then with one another "behind the Speaker's chair." The Opposition whips may agree to the speeding up of the debate on certain measures the Cabinet wishes passed if the majority's leaders in turn agree to find time to discuss certain topics in which the Opposition is especially interested. There thus exists a paradoxical situation (and one quite incomprehensible to any Fascist or authoritarian) in which a Cabinet, which has the necessary votes to force its measures through, voluntarily sets aside time so that the Opposition may attack it on the very points the Opposition most wants to criticize and on which the Cabinet is most vulnerable.

Without such arrangements, Parliament might have the best rules of procedure in the world and still be an outstanding failure. When a select committee of Parliament investigated the procedure on public business in 1931, the then Prime Minister, Ramsay MacDonald, told its members: "I must pay my tribute to the 'usual channels.' They are simply admirable. Whenever a reasonable arrangement can be made it is made. . . . I do not know how you could do your work in this House without the 'usual channels.'"

#### The Chamber

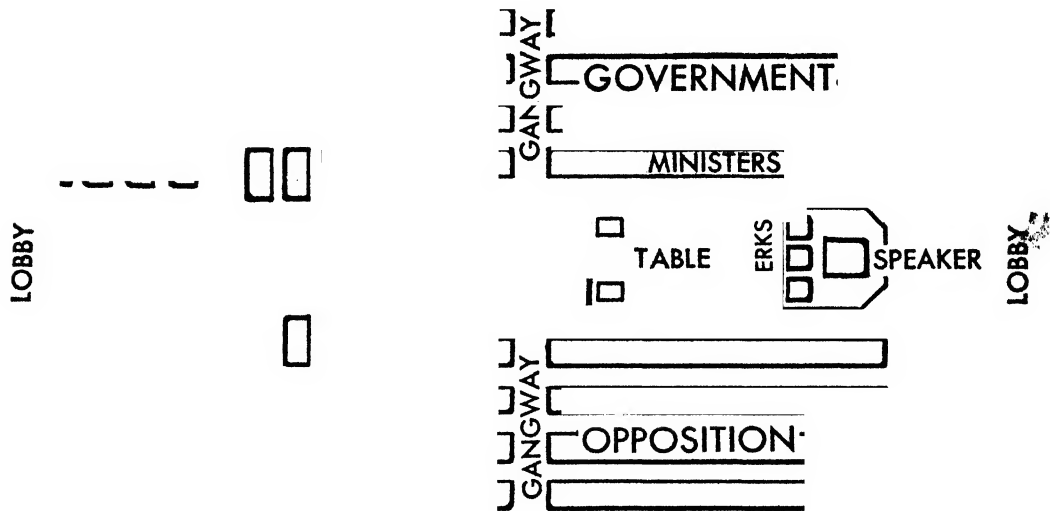
If the House of Commons in action is ceremonious, it is also extremely intimate. The room in which it meets is a small one: there are seats for only 346 members on the floor, al-

though in normal times there are somewhat more than six hundred members; there is no space even for desks. At one end of the room is the Speaker's throne, and in front of the throne sit three clerks, in wig and gown, at the head of a long table holding books, documents, and two

or fifty Members in the House (a quorum is only forty), and the front benches may be relatively empty; but at question period and for great debates Members flock into the chamber, fill the seats, overflow into the gallery, and stand about the sides, lending a feeling of excitement

## THE FLOOR OF THE HOUSE OF COMMONS

### LOBBY



### LOBBY

dispatch boxes. Five benches run along either side of the Speaker, the table, and the center aisle. On the Speaker's right sit the members of the majority party with their leaders (the Cabinet ministers) occupying the front bench, which is called the Front Treasury Bench. Directly opposite them, on the other side of the table, the "Shadow Cabinet" (the leaders of the Opposition) occupies the Front Opposition Bench. There is no gradation or middle ground. One's position must be taken frankly, for or against the Cabinet.

On ordinary occasions there may be only forty

and drama, of history in the making, which is most impressive and which makes the speakers themselves eager to rise to the occasion.

The smallness of the House has an important influence on the nature of the debate. In such a chamber it would be foolish to engage in oratorical pyrotechnics. The Members are on the same level with one another—there is no platform from which to harangue the assembly. If they speak from the front benches, half of their audience is behind them. If they speak from the back benches, half of the audience has its back toward them. The Opposition sits only a few

feet away: there is no need to shout in order to make it hear. Indeed, the leaders of either party can address one another almost in conversational tones across the table. They may, upon occasion, strike the table or the dispatch box for emphasis, or indulge in a restrained gesture, but there is little temptation to play to the grandstand; and it is easy for Members to make interjections, ask questions, and carry on a running debate which is serious, intimate, and not devoid of flashes of wit.

There is, in fact, a "House of Commons style" which is much admired and carefully cultivated—easy, casual, conversational, characterized by presence of mind and equability of temper. Occasionally, as in the case of Lloyd George or Winston Churchill, brilliance in speech will win great admiration; but in general the House prides itself on giving its attention to men who may be clumsy in their expression but who are deeply sincere or thoroughly competent to speak of the subject in hand. The Members themselves know the tricks of addressing crowds in their own constituencies, and they have no desire to listen to an eloquent windbag. The man who can impress them is the man who knows his business. No audience, in short, could give less encouragement to tub thumping or rabble rousing, and any speaker who indulged in such practices would find his listeners shifting their feet, rattling papers, interjecting sarcastic comments, and generally constituting the most difficult of all assemblies to address.

This is an atmosphere and an attitude, it is worth noting, which the House is eager to preserve. When its chamber was destroyed by enemy action during World War II, it was willing to permit changes and expansion in the galleries; but the floor of the House had to remain the same as ever, far too small to accommodate all the members but quite large enough for the kind of debate in which it excels. As Winston Churchill explained in his famous speech of October 28, 1943, when the rebuilding of the House of Commons was under discussion:

If the House is big enough to contain all its Members, nine-tenths of its Debates will be conducted in the depressing atmosphere of an almost empty or half-empty Chamber. The essence of good House

of Commons speaking is the conversational style, the facility for quick, informal interruptions and interchanges. Harangues from the rostrum would be a bad substitute for the conversational style in which so much of our business is done. But the conversational style requires a fairly small space, and there should be on great occasions a sense of crowd and urgency. There should be a sense of the importance of much that is said and a sense that great matters are being decided, there and then, by the House. . . .

We wish to see our Parliament a strong, easy, flexible instrument of free Debate. For this purpose, a small Chamber and a sense of intimacy are indispensable.

### *The House as Political Educator*

It would be hard to imagine an assembly better calculated to make the business of government vivid and comprehensible to the masses of the people. Here the greatest statesmen of the realm—the men whose pictures are in every paper and whose names are on every tongue—face one another in one small room, their followers drawn up behind them, attacking and defending, asking each other pointed and difficult questions, and debating the most controversial issues.

Such a scene is not a daily occurrence: there are many times when the debate is long-winded and dull, when most of the members take refuge in lobby, writing room, or smoking room, and when the leaders busy themselves with committee or administrative work and stay as far away from the House as possible. But on important occasions, when there is a motion of censure or when a highly controversial bill is under consideration, the reality comes close to the ideal. And if this sort of thing happens only occasionally in Parliament, it never happens in the American Congress. There is no way in which the presidential candidates of the two great parties may be brought face to face, regularly and naturally, to prove their mettle, a visible symbol of the conflict of ideas and interests. The President appears in Congress only to deliver a message but never to take part in debate, to be cross-examined, to explain his intentions or to defend his policies before the sharpest minds of the opposing party. Indeed, most of the best minds

and most popular leaders of the two parties do not even sit in Congress. There was never a time, for example, under the Roosevelt administration, when the President and the greatest members of his party appeared in Congress to be confronted by a Republican "front bench" composed, let us say, of Willkie, Dewey, Landon, Stassen, Hoover, Bricker, Vandenberg, and Taft. Six of these gentlemen were not even in Congress, and there was no pressure upon them to work with one another as a daily matter, to adopt a common attitude or even to arrive at any attitude at all on the most pressing questions of the time. If their views on any subject became known to the public, it was generally the result of carefully framed statements given to the press or delivered in an occasional public address, not of daily political activity carried on in the full glare of public attention on the floor of Congress.

Thus the American who takes his civic obligations seriously and who tries to follow the policies and the leaders of the different parties must keep his eye fixed in part on the White House and the Cabinet, in part on each of the two houses of Congress, and in part on the state capitols, and he is likely to be all the more confused by the fact that the leaders of the same party may be advocating incompatible and conflicting policies. In Great Britain, however, there is only one place to watch. The Prime Minister and the greatest men, both of his party and of the Opposition, sit in the House of Commons (it is rare for an active leader to be a member of the House of Lords). There they confront each other, not occasionally or on isolated issues, but regularly, week after week, on every issue of any importance. The leaders of the party must come to agreement on what the party's attitude is to be, and there is no way of dodging the issues. The party's record, and the record of all its leaders, is open and uniform on every subject which is debated and voted upon.

If effective popular participation in democratic politics depends upon the ability of the ordinary citizen to understand the political events of his day, then there could be no simpler way of conveying to him the rival attitudes of the great parties and their leaders than by this constant, dramatic, and simple confrontation of the two

groups at all times. Even the method of voting by walking into different lobbies is a conspicuous way of encouraging parties to act as a unit and of putting the vote of each member on the record—for the man who "crosses the floor" into the lobby of the other party is always a marked man.

The drama and ceremony of the House of Commons have one other consequence. In the heyday of Fascism it often used to be said that democracy was drab, colorless, and almost impossible to understand. Dictatorship could, on the contrary, provide spectacles to satisfy the popular need for excitement and emotion, and no form of government could be easier to understand than one man ruling over others. In Great Britain, however, such criticism loses much of its point. Parliament, unintentionally perhaps but nonetheless effectively, has made itself both colorful and comprehensible. Systems of checks and balances and divisions of powers in other countries may make democracy too complex for the ordinary citizen to follow or understand. In Great Britain the organized conflict of unified parties makes this task easy and even exciting.

Nothing could better convey the hold of the House of Commons on the emotions and imagination of the British people than Winston Churchill's speech in Parliament on October 28, 1943:

... the House of Commons is much more than a machine; it has earned and captured and held through long generations the imagination and respect of the British nation. It is not free from shortcomings; they mark all human institutions. Nevertheless, I submit ... that our House has proved itself capable of adapting itself to every change which the swift pace of modern life has brought upon us. It has a collective personality which enjoys the regard of the public and which imposes itself upon the conduct not only of individual Members but of parties. It has a code of its own which everyone knows, and it has means of its own of enforcing those manners and habits which have grown up and have been found to be an essential part of our Parliamentary life.

The House of Commons has lifted our affairs above the mechanical sphere into the human sphere. It thrives on criticism, it is perfectly impervious to newspaper abuse, or taunts from any quarter, and it is capable of digesting almost any-

thing or any body of gentlemen, whatever be the views with which they arrive. There is no situation to which it cannot address itself with vigour and ingenuity. It is the citadel of British liberty; it is the foundation of our laws; its traditions and its privileges are as lively to-day as when it broke the arbitrary power of the Crown and substituted that Constitutional Monarchy under which we have enjoyed so many blessings. . . . I do not know how else this country can be governed other than by the House of Commons playing its part in all its broad freedom in British public life.

### ***The Work of the House***

It is customary to say that the principal job of the House of Commons is to make, to support, and to overthrow Ministries. Normally, the Ministry is a group of men all of whom must be Members of Parliament. Most of the important ministers, including the Prime Minister, are members of the House of Commons. They are ministers because a majority of the members of the House of Commons are ready to support them, and if ever a majority should withdraw that support, the Ministry must resign or appeal to the electorate. "The House of Commons," according to Bagehot's classic work on the English Constitution, "lives in a state of perpetual potential choice: at any moment it can choose a ruler and dismiss a ruler."<sup>4</sup>

Today, however, this statement has lost most of its meaning. With the extension of the suffrage in 1867 and later years, and with the growth of party organization and party discipline, the occasions on which the House of

<sup>4</sup> The use of the terms "Ministry," "Cabinet," and "government" occasionally perplexes the foreigner. There are, in Great Britain, about seventy offices of ministerial rank which are filled by members of the party which has the confidence of the House of Commons. The holders of these posts, taken together, constitute the Ministry. About twenty of the most important ministers comprise the Cabinet, and the decisions of the Cabinet are binding upon all ministers.

The British use the word "government" much as Americans use the word "administration" when they speak of "the Roosevelt administration" or a "Republican administration." Thus "government" includes all the men who hold ministerial office and whose tenure of office depends upon the retention of the confidence of the House of Commons. When the British say that a government has been overthrown, they do not mean that there has been a revolutionary upheaval but simply that the House of Commons has voted against the Cabinet and thereby forced the Cabinet to resign. Under such circumstances a new government succeeds an old government, much as the Roosevelt administration succeeded the Hoover, and the Harding, the Wilson.

Commons is in a position to expel a majority government are few and far between. In those exceptional cases when there is no party with a majority of the seats in Parliament (as in 1923-1924 and 1929-1931), the Ministry may be unstable. But it takes a major crisis, and, indeed, a split within the majority party itself, to force the resignation of a government composed of the leaders of a party with a majority. The days are gone when Bagehot could write, "Nowadays, the power of leaders over their followers is strictly and wisely limited: they can take their followers but a little way and that only in certain directions." Actually the reverse is closer to the truth. Through the party machinery the leaders control their followers and take them pretty much where they will. Usually they are careful to avoid policies which are so unpopular as to split the party, and they may shut their eyes to deviations by their followers on matters of lesser importance. But if the leaders are determined to carry out a policy, even one which is unpopular among a large proportion of their followers, they are almost certain to get their way. If one looks for a peacetime example of a Ministry which came to office with a firm majority and which resigned simply because of a hostile vote by the House of Commons, one must turn back to 1885. Consequently, in normal times the ultimate check upon the power of party leaders is not the fear of a defeat in the House of Commons but the fear that the policies they favor will split their party or that these policies will lose them the next election. Thus it is not so much the House of Commons which chooses and dismisses Ministries as the people as a whole, when at a general election they give a majority of the seats to one party.

What, then, is the principal business of the House of Commons? The fact that it is a "legislature" suggests that it makes laws. The fact that it is a house of "Parliament" suggests that it talks. And the latter impression is the more nearly correct. The chief business of the House of Commons, undoubtedly, is to talk—in a variety of ways and for a variety of purposes.

### ***The Function of Criticism***

The most important of these purposes is to criticize the Ministry, a form of talking which

is the special function of the Opposition. In a way, it could even be said that the most important part of Parliament is the Opposition because without it the criticism which is the health of the system would not exist. This is, indeed, so generally recognized that the leader of the Opposition is paid a salary by the government so that he can devote all his time to organizing his attack upon it—the sort of arrangement which must bewilder the citizen of those totalitarian states where the fate of an opposition leader is prison or the firing squad rather than an official income.

To the outsider the job of opposing might appear a thankless one. Week after week and month after month the leaders of the Opposition prepare an attack upon ministerial positions. Each legislative proposal and each administrative action is scrutinized, in principle and in detail, for possible weaknesses. Week after week and month after month attacks are made and votes are taken. And week after week and month after month the Ministry marches its well-disciplined majority into one lobby, the Opposition files into the other, the votes are counted, the Opposition suffers another defeat—and the next day the warfare begins all over again, again to end in apparent futility.

In reality, however, there is nothing at all futile about the proceeding. The Cabinet may know perfectly well that it is going to win whenever a vote is taken, and the ministers who are responsible for the legislation or the policy under attack may know perfectly well that they have the votes to sustain their action. But there is slight comfort in this knowledge if, in the meantime, the Opposition is sharply and devastatingly castigating their intentions and their competence, and if reporters are looking on from the press gallery while they try to find an adequate defense.

For the Opposition is not talking under the illusion that it may persuade enough of the Cabinet's supporters to cross the floor and overthrow the Cabinet. It is talking to the country at large, and it is trying to make the Cabinet appear to the public eye either incompetent or vicious or, if possible, both. Great Britain, it must be remembered, is in something of a continuous election campaign. The Opposition does not know at what moment the Cabinet will ask for a dis-

solution of Parliament and call for a new election—and the three weeks of the campaign are far too short a time to prepare a case and convert the people of the country to the Opposition's point of view. The campaign, therefore, must go on constantly, and the people must be made to see that the Opposition is alert, intelligent, public-spirited, and constructive in contrast to a doddering, blundering Cabinet. Every issue must be explored to see whether it may not be the one on which the Opposition can ride back into power. And there is no better way of achieving this goal than by holding the Cabinet and its supporters up to attack and ridicule in the House of Commons on every conceivable point—for there they must sit and listen to and cross swords with the Opposition. There is no evading it. And if no single encounter will destroy the Cabinet, the cumulative effect may well be disastrous.

And so, when a minister finds himself obliged to defend a policy, safe though his party's majority may be, he knows that he will be subjected to the full fire of the Opposition, searching, sarcastic, shrewd, and witty, sometimes talking in pity and sometimes in wrath, but always searching for the opening in the Cabinet's armor which will show that many factors have been ignored, that incredible blunders have been committed, that its understanding is weak and its intention bad. If the minister shows an inadequate grasp of figures, if he errs in his facts, if he is weak or apologetic, he will face the jeers, the interruptions, the interjections, and the shouts of his opponents—and if he allows himself to become rattled or disconcerted, their glee will know no end.

Under the circumstances it is little wonder that the minister and his subordinates spare no pains, in preparing their legislative proposals and their administrative rulings, to foresee the possible objections and criticisms of the Opposition, to plug the gaps before the Opposition can take advantage of them, and to take every human precaution to make their proposals as fool-proof as possible. Nor could anything be more desirable. Changes which the Opposition could never achieve on a formal challenge are often anticipated by the Cabinet itself. And if it becomes apparent in committee or even in debate that there is a real weakness in the govern-



ment's proposals, it is not unusual for it to accept amendments or even to withdraw proposals rather than to press things through to a certain but Pyrrhic victory. Let no one say that debate and criticism are without a very real effect.

#### OPPORTUNITIES FOR CRITICISM

The debate on specific bills introduced by the Cabinet gives the Opposition an opportunity to attack individual legislative proposals. But many of the subjects which are most important, and on which the Cabinet is most vulnerable, have nothing to do with new legislative proposals. One of the biggest jobs of the Opposition is to criticize matters of administration and policy-making: to question the foreign policy of the Cabinet, to defend the civil liberties of the subject against governmental interference, to check up on inefficiency or blundering on the part of the bureaucracy, to attack the way in which legislation is being administered, and especially to oversee the general trend of governmental policy in its larger aspects and to make the government defend both its intentions and its practice.

The Opposition has its best opportunity to criticize governmental policy as a whole when it debates the reply to the King's "Gracious Speech" (which is, of course, a review of the Cabinet's position and a statement of its general program) and during both the general debate on the budget and the series of more specific debates on the departmental estimates. Technically, of course, the latter debates should be concerned with financial matters; but it is customary for the Opposition to use this opportunity to criticize the policy of the different departments which are asking for appropriations. If the Opposition dislikes the Cabinet's foreign policy, it can use the debate on appropriations for the Foreign Office to attack, not the way in which money is being spent, but the policy pursued toward Spain or Turkey. Such debates may be introduced by a motion on the part of the Opposition to cut the department's appropriation by some trivial sum—perhaps £100; and the "usual channels" are used to determine which departments the Opposition most wants to criticize and to apportion a major part of the debate to these matters.

In addition to these regularly scheduled de-

bates, the Opposition may ask special facilities to attack the Cabinet's policy in general or to discuss some especially important issue. If the Opposition "demands a day" for a *motion of censure*, the Cabinet will find time for a debate in the near future. On such occasions each side brings forth its biggest guns. The Prime Minister and the leader of the Opposition take a prominent part in the debate, and the country as a whole has one of its best opportunities to size up the two parties and compare the effectiveness of their leadership. Both parties know that the press and public opinion will watch closely for some indication of the relative competence of Cabinet and Opposition, and each is eager to have the verdict of newspapers and political commentators on this particular skirmish rendered in its favor.

More limited subjects, or those which do not warrant a full-dress debate, may be brought up on the *motion for adjournment* at the close of the day's business. At such times short speeches may be made criticizing or questioning the Cabinet's attitude on particular matters like its foreign policy toward Greece or an infringement of civil liberties at home. In unusual and rather spectacular instances, a Member may, as soon as the House meets, move to adjourn to discuss "a definite matter of urgent public importance"—the Speaker being the judge of whether the matter fits the definition. If forty Members support the motion, the ordinary timetable of discussion is suspended, and later on the same day (when the Cabinet's spokesmen have had time to inform themselves on the subject) a full debate may be held.

What is important about this provision is that even a Cabinet which has an overwhelming majority supporting it in the House of Commons cannot prevent the immediate ventilation of any important grievance. The weakest opposition has at least forty votes at its disposal, and once the Speaker has agreed that the matter is definite and urgent, the debate is assured.

#### THE QUESTION PERIOD

Perhaps the most effective check on the day-to-day administration of the Government is the question period. Four times a week, at the beginning of the sitting of the House of Commons, ministers devote almost an hour to an-

swering questions which have been put to them, in writing and in advance, by any member of the House. The questions are numbered, printed with the Orders of the Day, and distributed to the members. As soon as the question period starts, the first questioner rises and begs "to ask question number one," and the appropriate minister replies. The questions are classified so that different ministers can answer a series of inquiries on different days. As a result, in a comparatively short time, forty or fifty questions, covering the greatest range of topics, may be taken up. To select an example at random, on October 31, 1945, Mr. Bevin, the Foreign Secretary, was asked thirty questions, covering the political situation in Greece, in Spain, in China, in the Dutch East Indies, in Yugoslavia, in Danzig, in Rumania, and in Austria, and ranging from the possibility of holding an economic conference of the Western and Northern European Nations, his attitude toward a speech of President Truman's, the details of the murder of a British officer in the Dutch East Indies, and the freedom of press correspondents in Rumania, to the detention of a British officer as prisoner of war in Hungary and the reply of the U.S.S.R. to a note protesting the Soviet-Hungarian and Soviet-Rumanian trade agreements. The Chancellor of the Duchy of Lancaster answered seven questions concerning Austria. The First Lord of the Admiralty answered nine questions, including one which asked:

. . . whether he will ensure that AB P.J.X. 631934 Wilson, J., whose embarkation leave is due to end on 31st October, is not dispatched overseas while his application for a Class B release, initiated in September, is being considered; and whether, in conjunction with the Minister of Works, he will hasten the investigation of this case which has been outstanding for some time.

Prime Minister Attlee answered two questions, the Minister of Food answered fourteen (ranging from the provision of feed for pigeons and the storage of grain in Norfolk to the black market in eggs and poultry, the cheese ration for gas workers, and the provision of orange juice for children released from Japanese prison camps), the Parliamentary Secretary to the Board of Trade one question concerning the

Board's refusing a license to establish a carpet factory at Creetown, the Undersecretary of State for Air answered eight questions, and the Home Secretary one.

There is considerable art both to asking and to answering the questions. The Opposition tries to make things as difficult for the ministers as possible; the ministers often try to tell as little and to make the Opposition look as foolish as possible. The questioner must give warning of his question in writing, but he, or other Members, may ask "supplementary questions" on the spur of the moment. Often an initial question, completely innocent in appearance, is asked simply in order to provide an excuse for springing a trap with carefully planned supplementaries. The minister must know when to give a full and detailed answer, when to avoid the question, when to state bluntly that he has nothing to add to information already available, and when to pass the question off with a joke at the expense of the questioner. A question which is too obviously disregarded or evaded may cause more unpleasantness than a slightly damaging answer and a promise of reform; but there are times too when it is better to anger the questioner by evading the question than to make a serious admission. The minister who is clumsy may precipitate a host of supplementaries and a debate on the very subject he would like to avoid; the minister who is pleasant and quick-witted may win the House to his side. Something of the proper tone is suggested by the reply of a minister who, upon being asked in a supplementary question why English bricks were being sent to Scotland, made no attempt to defend the transaction at length. "The answer," said he, "is a simple one. The English are a simple, kindly, generous people."

### *Control of the Civil Service*

The questions constitute a particularly effective check on the administration and the civil service, as well as the Ministry. One of the commonest forms of questions begins "Is the Minister aware that . . ." followed by an account of some error or inefficiency on the part of a government agent or agency, and ends "and what action does he propose to take?" The fear of this kind of question has a powerful effect on

the civil servant and his superiors, who know that any misdeed or mistake, deliberate or otherwise, may be exposed in the light of Parliament and by a person who has no interest in minimizing its seriousness. Some people suggest that the result is to make the civil service unduly cautious and reluctant to display initiative or imagination and that far too much of its time is wasted in hunting up the answers to questions for the use of the minister who must reply to them. But it would be hard to deny that the system makes for greater responsibility than is to be found in the American Congress. Indeed, it makes for responsibility in two ways. In the first place, the parliamentary heads of the departments or their representatives are on the floor of the House to answer for the errors of their subordinates—so that the administration is itself held in line, promptly and effectively. But the Opposition itself must act responsibly, for the administration has its ministers, primed with detailed facts, on the floor of the House to defend it. And where, in Washington, unjustified and inaccurate attacks are sometimes made on the floor of Congress against administrative officials who have no opportunity to defend themselves with equivalent publicity, the Opposition in Great Britain is promptly answered by the very people who are in the best position to refute any charge which is, intentionally or not, unfair.

### *The Defense of Civil Liberties*

Even more important than the control of the civil service, however, is the protection afforded civil liberties by the question hour and the debate on adjournment. There is something both moving and impressive in this spectacle of the highest officials of the kingdom, including the Prime Minister himself, accepting the obligation to answer questions and to provide time to discuss any violation of the rights of the humblest of their fellow citizens. In the United States, a person whose rights are infringed must look to the courts for protection, and often the road to the Supreme Court is a long and prohibitively expensive one. But in Great Britain, without the loss of time and without expense, the subject who feels himself wronged can find a Member of Parliament who from zeal for justice or

simply an eagerness to embarrass the government will be delighted to cross-examine the most important ministers in order to make sure that such people as P.J.X. 631934 Wilson, J., are not abused. It is at such times that one has the sensation, increasingly rare in modern times, that the ideal of government as the servant and not the master of each individual human being is occasionally realized in practice.

### *The Function of Education*

Today debates in the House of Commons are an important instrument for popular political education, although as late as 1771 the reporting of such debates was illegal. To evade punishment, editors disguised their parliamentary reports under such titles as "Proceedings of the Lower Room of the Robin Hood Society" or the "Report of the Senate of Lilliputia," while the names of participants were altered in a recognizable fashion, so that Sir Robert Walpole might become Sir R-b-t W-lp-l- or Sir Rups Walelup. Attendants were bribed to give reporters information concerning the speeches, and writers like Samuel Johnson (who attended the House of Commons only once) composed reports of parliamentary speeches which were considerably more elegant and effective than the originals, but in which he took care that "the Whig dogs" should not get the best of their opponents.

Early in the nineteenth century, William Cobbett began to print parliamentary debates as a supplement to his *Political Register*; in 1811 the work was taken over by his printer, T. C. Hansard, who published "*Hansard's Parliamentary Debates*"; and today, although the government itself now publishes the text of the debates, this record still goes by the popular name of Hansard.

Much of Parliament's effectiveness as an instrument of political education results from the relative simplicity and clarity of its proceedings: for the concentration of interest in the House of Commons and the dramatic character of its important debates attract great popular attention. And if few people read the verbatim text or even a very complete account of the discussion, a far larger proportion have a general idea of what is going on and of the attitudes of the

opposing parties than is the case in the United States.

### **The System of Debate**

According to the custom of debate, the party which is presenting a motion or a piece of legislation decides who shall introduce the debate and who shall sum up its case. The party which is opposed to the motion or bill decides who shall lead its attack and who shall conclude its argument. The Speaker learns of their identity in advance through "the usual channels," and he learns, either through the usual channels or from the Members themselves, the names of others who would like to participate in the debate. In theory the Speaker recognizes anyone who rises and "catches his eye," in the order in which they catch it. But in practice he already has in mind, on important occasions, the names of the people by whom he will allow his eye to be caught. After the spokesmen for the leading parties have had their chance to speak, he is likely to look to the minor parties—the Liberal and Communist—and to independent Members or Members with differing opinions inside the major parties or Members representing different interests or geographical areas. The debate proceeds in an orderly fashion, generally a Member on one side of the House being recognized and then someone from the opposite side, so that contrasting views follow one another and so that each side may reply to the arguments of the other. Finally, leaders of the two chief parties sum up the case for their side and against their opponents. The Speaker is careful to give proper, and even excessive, attention to the views of the minority; and the best way to be heard frequently in the House is to belong to a small group which, because of the distinctiveness of its outlook, contributes to every debate, while the mass of the members of the great parties are ignored in favor of their leaders. The Speaker also insists on Members speaking directly to the resolution so that, in marked contrast to debates in continental legislatures, which spread ever more widely from the point at issue, discussions in the House are sharply focused. The result is a debate which is orderly, pertinent, and comprehensive and which, in spite of much unavoidable dullness, generally

makes more lively and coherent reading than the equivalent debates in the *Congressional Record*.

An important adjunct to the educational work of the debates, as one might guess, is the educational work of the question period, as Members from the government side, as well as the Opposition, try to elicit important information from the appropriate minister so that the public may be informed on the subject. Occasionally, too, Members ask questions, even when they already know the answer, in order to attract the attention of the country to an urgent matter. Ministers themselves have been known to inspire questions so that the public might be informed of certain matters.

Here too it must be noted that there is no equivalent institution in the United States. To some extent, the growing habit of holding press conferences offers a comparable source of information. But President Roosevelt, who made the greatest use of this device, was always able to tell a reporter who asked an inconvenient question to "stand in the corner"; and there is never a time when the leaders of the government are asked, as a regular matter, about their policies and intentions and the administration of their departments by members of the opposing party in Congress.

There are important defects in the British Parliament, as the following sections will indicate, but among its virtues none is more important than its proof that democratic government can be simple, understandable, often interesting, at times dramatic, and a vital means of popular political education.

### **III. THE HOUSE OF COMMONS: LAWMAKING**

Any description of Parliament which gives first place to its work as critic, educator, and defender of civil liberties, inevitably surprises many readers. For so many generations has the House of Commons enjoyed the reputation of being the greatest lawmaking body in the world that there is something disconcerting in the discovery that, today and normally, it has very little to do with legislation in the sense of "thinking

up" laws, writing them out, and determining what precise provisions they shall contain. It would be an oversimplification to say that laws are thought up by parties, pressure groups, or civil servants; that they are framed by civil servants; and that they are adopted by the Cabinet. But such a generalization is closer to reality than is the contention that it is Parliament which makes the laws.

So far as legislation is concerned, what Parliament does is to consent to laws. Even this consent, however, is largely the result of pressure brought by leaders of the majority party on their more or less docile followers in the House of Commons. In fact, the decisive point in the enactment of any law is not the moment when the House of Commons gives its consent but the moment when the leaders of the majority party (who, of course, comprise the Cabinet) decide to give their support and approval to the bill. The House of Commons, as earlier chapters have suggested, is not a cipher, and there are various ways in which it influences the final form of legislation; but control rests firmly in the hands of the majority party's leaders. Without their consent no legislation may be adopted; and any legislation which is passed has first received their tacit or explicit endorsement. So obvious is this control today that even in normal years seven-eighths of the time of the House of Commons is devoted to business planned by the government. Occasionally, as in the period from 1945 to 1948, the government may take for its use all of the legislative time which the House of Commons has at its disposal, and the Opposition and private members may not even be allowed to introduce bills of their own.

### ***The "Decline of Parliament"***

This situation has resulted in much talk of the "decline of Parliament." Young men of ability and ambition, it is often said, no longer think of Parliament as offering an adequate outlet for their talents. The essential decisions are made outside its halls and, under the strict regime of parliamentary discipline, the private member has little to do except vote as his party's leaders tell him to vote. On the Opposition benches,

it is true, a newcomer may distinguish himself by his ability to harass the government; but on the government benches even an able speech tends to be regarded as an unnecessary hindrance to the speedy passage of legislation for which the majority party has ample votes. In neither major party is there much admiration for independence of thought or conduct, and in neither party is the newcomer likely to have an opportunity to pass into law bills of his own invention or to induce a major change in the legislative proposals of others.

If Parliament is declining as a legislative body, there are two major reasons for the decline. The first of these is *lack of time*. There may once have been a period of "inactive government" when Parliament could concern itself primarily with constitutional issues, foreign policy, or taxation. But today even the most conservative government is expected to enact social and economic legislation of the most varied and voluminous nature. Health, education, security against old age and unemployment, the regulation of working conditions and wages, and the control, supervision, and promotion of industry are the normal work of governments in all civilized countries. The result is that every legislative body is confronted with many more demands for legislation than can possibly receive adequate discussion and investigation. If every Member of Parliament had the right to be heard on every important section of every important piece of legislation, it would be impossible to pass more than one major measure a year. Yet even a Conservative government in "normal" times is likely to have much more on its legislative program than that; and a government which has sweeping promises of reform on which to make good (as did Labor in 1945) faces an incomparably more difficult situation. During the single session of 1945-1946 the House of Commons was called upon to pass some seventy measures, including such major bills as the Bank of England Bill, the Coal Industry Nationalization Bill, the Investment (Control and Guarantees) Bill, the National Insurance Bill, the Trade Disputes and Trade Unions Bill, and the National Health Service Bill. Under the circumstances it was impossible to devote more than a few days of debate to any measure, however technical and elaborate. The lion's share of the time was pre-

empted by ministers who explained the bills and by Opposition leaders who attacked them. The ordinary Member of Parliament was only too likely to be passed over. And the inevitable result was a feeling of frustration and discouragement on the part of the private members and even a lowering of the quality of debate, as shortness of time prevented searching analyses of the details of a bill.

The second great problem is lack of expert knowledge. The type of social and economic legislation which occupies more and more of the time of the House of Commons is highly technical. The ordinary Member of Parliament may understand the purpose of the legislation, but often he is quite incompetent to understand the technical means needed to achieve this purpose or the effect which such means will have upon other legislation or on other interests of society. It is one of the advantages of the House of Commons that so many of its members have had some firsthand experience with problems which come before it for discussion; but on any single problem there are likely to be very few who are able to understand, let alone to formulate, the intricacies of the legislation under discussion. It is reported that only two Members of Parliament understood the Local Government Bill of 1928-1929, and one of these was the minister who presented the bill and who had been very carefully instructed by the civil servants who drew it up. Under such circumstances, the parliamentary process loses much of its significance, and there is an understandable feeling that it is the experts in the civil service who do the real work of legislating while the Members of Parliament go through a series of colorful but essentially meaningless motions.

This problem is enlarged by the fact that an important part of the work of Parliament is not merely to pass legislation but to supervise the way in which it is carried out and, in general, to oversee the work of the administrative departments of the government. The head of each department is a minister sitting in Parliament, and through him each department is supposed to be under direct parliamentary control. But the ordinary Member of Parliament is as incapable of understanding and directing the detailed and technical work of the expert administrators as of framing their legislation. If ever he has sus-

picious and criticisms, he may ask questions or speak on the motion for adjournment, but he is likely to lack both the information and the experience to cross swords successfully with a minister who has been properly coached by the expert staff. Furthermore, administrative action, to be effective, must often be taken promptly, and there is no time to wait for parliamentary debate or decision on the matter at hand. At such times, Parliament is presented with a *fait accompli*, and although it may criticize and question, it is too late to prevent or alter.

#### LIMITATIONS ON DEBATE

Parliament has developed a variety of devices for meeting, or mitigating, the problems of time and expertness. In particular, in order to conserve time, it has introduced rigorous controls over debate which are intended to prevent filibusters and other time-consuming attempts to delay or obstruct legislation and to concentrate debate on the most important aspects of legislation.

Some of these controls are informal and voluntary; some are decidedly coercive; but in either case they raise a serious question for democracy. Discussion is generally regarded as the heart of democratic government; to restrict it is to restrict the possibility of information, understanding, and voluntary agreement concerning the points at issue. Moreover, restrictions on debate may be used to oppress or suppress a minority. Yet it is also important that some conclusion be reached and that the desires of the majority be safeguarded against the obstruction of a willful if vigorous minority. The parliamentary problem, then, is to provide for the adequate expression of all important views without permitting the final decision of the majority to be thwarted.

Of the formal devices used by the House of Commons, the most important are various forms of *closure*. Any Member may at any time move "the previous question," and, if the Speaker is willing to entertain the motion, the House of Commons must vote immediately and without further debate on the question of whether or not it desires an immediate vote on the subject under discussion. If at least one hundred Members vote in favor of the motion, and if they constitute a majority of those present and voting, debate is



halted and a final vote taken. Of course, a majority party always has one hundred votes at its disposal, and the provision would be open to serious abuse were it not for the fact that the Speaker refuses to accept such a motion until the Opposition has had a fair chance to present its case.

There are several refinements of the closure procedure. A *guillotine* resolution may be adopted, assigning a certain amount of time in advance for the debate on a specific measure. At the conclusion of that time, regardless of where the debate stands, the guillotine falls and a vote is taken. In order to prevent such a procedure from concentrating debate on the opening provisions of a bill, the device of *closure by compartments* may be used to divide a bill into a number of sections, assign a certain amount of time to each, and arrange for the guillotine to fall as each sub-period of time elapses. In addition, through the use of the *kangaroo*, the Speaker may select those proposed amendments which are most important or most controversial and arrange to have the debate concentrated on these matters, hopping over those which are of less consequence. Increasingly, the Cabinet has tended to invoke these devices as part of the regular process of debate rather than as emergency measures to be used under exceptional circumstances; and as this tendency has grown, the Speaker has acquired an ever heavier responsibility, for his discernment, judgment, and impartiality are now the chief institutional safeguard against their abuse.

The informal devices for limiting debate receive some of their effectiveness from the knowledge that, in case of failure, more formal methods of closure may be invoked. The strength of the majority's powers renders the minority more willing to arrive at agreements "behind the Speaker's Chair"; and the whips of the two leading parties are likely to work out together a timetable for debate according to which each side agrees to restrain its own spokesmen in return for concessions from the other side. As a result of such agreements it usually happens that the leaders of both of the great parties, together with representatives of the minor parties, have ample opportunity to present their cases; but the opportunities of the rank and file Backbenchers are drastically limited. Thus the

Speaker, at the beginning of the debate, may make the sort of announcement which preceded the two-day debate on a motion of censure on December 5-6, 1945:

I have worked out a list of about 30 names covering, I hope, most interests and, geographically, most areas, but that leaves something over 70 who will be disappointed. Naturally, in these circumstances, I have had to disregard, to a great extent, the claims of maiden speeches, and I am sorry to say, too, that I have had to disregard many old Members who have not spoken yet in this Parliament, but I really could not work them in under the scheme that I have adopted. I am sorry that 70 odd Members will be disappointed, but I simply cannot help it.

Such restrictions are loudly deplored by ordinary Members of Parliament, but the whips and the leaders of the great parties insist that only through such limitations can the parliamentary machine be made to work.

#### LEADERSHIP

The concentration of greater power in the hands of the leaders of the majority party (that is, the Cabinet) has offered a second method both of saving time and of introducing greater expertness into the legislative process. The leaders' firm control of the House of Commons, based as it is upon party discipline, is the real force behind the different devices for limiting debate. It is easier, of course, to work with the co-operation of the Opposition, and the Speaker may prevent any attempt to abuse the closure powers, but the majority's leaders, when they use their powers to the full, may determine what shall be discussed by Parliament, when the discussion shall take place, how long it shall last, and when the vote shall be taken.

The fact that most (and in some sessions all) of the legislation enacted by Parliament is sponsored by the Cabinet and that the Cabinet has access to expert assistance which is not available to the ordinary Member, also means that legislation is far more carefully and competently framed than is the case with most of the legislation adopted by the American Congress. The normal procedure is for a legislative proposal which the Cabinet intends to sponsor to be submitted to all of the governmental departments concerned for study and comment by the



permanent officials of the civil service. The various interests which will be affected may be called in for consultation, and outside experts may be asked for their opinion. On the basis of this information, the Cabinet makes its decision to submit the proposed legislation, and the office of the Parliamentary Counsel to the Treasury undertakes the highly technical job of drafting the precise terms of the legislation—for there are innumerable opportunities for the layman to blunder by overlooking the effect of the new legislation on laws already passed, by using words which will have a legal effect quite different from that intended, or by using words which will not accomplish the purpose intended.

Thus the bill which goes to Parliament may be the result of promises made in the party platform, of influence exerted by a powerful pressure group, or of suggestions from the permanent staff of one of the government departments; but whether the inspiration is expert or amateur, the bill has been subjected to the scrutiny of men of experience and technical capacity in the field concerned. Even these men are fallible, of course, and the great burden of legislation and administration forces them, too, to act in haste and without sufficient consideration. And the private member of Parliament, because of his own knowledge or because of the protests of outside interests, is sometimes able to point out flaws in the measure as submitted. Yet the Cabinet, because of its control of the majority party, is obliged to accept only those amendments which it wants to accept, and there is no danger that the expertly prepared legislation will be mutilated by the host of hasty, irrelevant, incompatible, ill-considered, or badly drafted amendments which threaten official proposals in the United States.

To the private member this fact brings little consolation. He likes to think that he was elected to Parliament to do something—to share in the making of legislation or at least to play an active part, as critic, in modifying it. The concentration of authority in the hands of the leader, and the lack of alternative sources of expert information by which to judge the legislation, inevitably encourage a feeling of frustration and the impression that party leaders think of him simply as a “brute vote” whose opinions, if any, are at best a nuisance. To the private member,

then, it is likely to appear that expertness is being won at the expense of responsibility.

#### COMMITTEES

In certain respects the committee system offers a third method of conserving time and increasing expertness. Bills which are accepted by the House of Commons in principle (that is, given second reading) are sent to a committee for more detailed consideration. In some instances the committee is simply the House of Commons itself sitting under a different name, *Committee of the Whole House*, and at such times the Speaker leaves the chair, and a chairman presides over the meeting from a post at the head of the table. Procedure is simpler than in a regular meeting of the House: motions need not be seconded, and the same person may speak repeatedly in the same debate. It is this committee which considers all money bills (that is, all revenue and appropriations measures and it is then known as Committee of the Whole on Supply and on Ways and Means), as well as bills confirming provisional orders and any other bills which the House (that is, the Cabinet) is willing to have it consider. In 1946, it was also agreed that three particular types of measures should always be considered before the whole House: those which have to be passed with special speed; “one-clause” bills which do not need detailed committee examination; and those of “first-class constitutional importance,” like the Statute of Westminster, 1931 (p. 216).

*Standing Committees.* In most instances, however, bills are referred to *standing committees*, six in number, which are really little legislatures each made up of about fifty Members of Parliament. By having several of these committees meet simultaneously (in the afternoons as well as the mornings if the House is not considering important business), it is possible to consider several times the amount of legislation which could be taken up by the Committee of the Whole House, and a larger number of Members have an opportunity to speak. In contrast to the United States, France, and Germany, however, where legislative committees concentrate on special subjects like foreign affairs or finance or labor, the committees of the House of Commons are largely unspecialized. Even though a number of public bills might be concerned with

very different kinds of technical subjects, they may all be sent to the same committee; and the result is that its members, instead of acquiring experience and competence in a distinct field of legislation, shift from subject to subject. At the same time, because membership on a committee may change according to the bill under consideration, there may be a good deal of expert comment on particular measures based on personal experience.

Americans tend to feel that more highly specialized committees would increase the prestige and power of Parliament in relation to the Ministers and civil service because private members' criticism of Government proposals would then be more intelligent, better informed, and thus more effective. They charge, therefore, that the Cabinet opposes more specialized committees because they would make life more difficult for the ministers and the permanent officials. To the British, this comment shows a misunderstanding of the parliamentary system. Committees are always looked on as secondary amending bodies; that they should change the principle embodied in the legislation, as is done so frequently in the United States, would seem rank usurpation of the rights of the House as a whole. In the light of their more limited function, the flexibility of British standing committees more than outweighs any lack in departmental specialization, according to British comments. At least they provide no challenge to the unified leadership of the Cabinet.

*Other Committees.* The work of these standing committees is supplemented by the work of other committees. The House of Commons may, for example, set up select committees on public bills; if so, this examination is prior to the normal committee stage. There are also a number of select committees which are set up every session: e.g., the highly important and almost unique Public Accounts Committee, of which a leading member of the Opposition is always chairman, the increasingly important Estimates Committee, the Committee of Selection (which nominates the Standing Committees), the Committee on Privilege and, on a more mundane level, the Kitchen and Refreshment Rooms Committee. Select Committees also undertake investigations of the conduct of individuals or groups in a manner generally

less spectacular but essentially similar to Senate investigations.

When the House desires to have additional information on specific problems on which legislation is contemplated, it may also request the government to set up a *Royal Commission*, an executive rather than parliamentary agency which is a time-honored device for making a careful study of an outstanding issue. Royal Commissions are generally composed of experts or interested persons, known to be open-minded on the subject, for the purpose of the Commission is not only to marshal facts but also to evolve a policy. Almost all the great measures of social welfare of the nineteenth and twentieth centuries have been the result of reports of Royal Commissions or other bodies of inquiry; and there have been Royal Commissions on Local Government, the Civil Service, and the Press (p. 15). Though the reports of such committees are not binding on the executive, they have had exceptional importance, not just in influencing Members of Parliament, but in informing and educating public opinion in general; in certain instances the published reports of Royal Commissions have become "best sellers" in their own right. The public impact is rather like that of the Report of the President's Committee on Civil Rights (1947)—in membership and operation that committee was not unlike a Royal Commission—while the effect on legislation is much greater.

In addition to such official committees, members of the major parties in Parliament also organize themselves into special party committees which study and debate specific issues of policy and discuss their conclusions with party leaders. And since many Members of Parliament have no official committee assignments, the party committees offer a particularly welcome outlet for their talents, both as a way of gaining information and experience and as a means of influencing party leaders without the necessity of opposing them on the floor of the House of Commons.

#### DELEGATED LEGISLATION<sup>5</sup>

A fourth way of providing time and expertness is for Parliament to pass bills in general

<sup>5</sup> For a fuller discussion of delegated legislation, see below, pp. 135-36.

outline, at the same time delegating to government officials the power to make rulings and regulations which will achieve the intent of the bill in specific cases. Thus Parliament sets the general purposes of the legislation, but expert administrators work out the technical details which Parliament has neither the time, the information, nor the skill to anticipate. If changing circumstances or unpredictable developments make certain rules inappropriate or obsolete, the administrators are free to make new regulations to carry out Parliament's original purpose, and Parliament itself need not be troubled to pass new legislation.

Such a delegation of legislative authority has obvious advantages in achieving expertness and flexibility, and every advanced industrialized country has had to resort to this type of legislation in order to prevent the legislative machinery from breaking down under the weight of the volume and technicality of those laws demanded by the public. One of the problems of contemporary parliamentary government, however, is to work out an effective system of supervising the exercise of the delegated powers without at the same time destroying their efficacy.

### How Bills Are Passed

Different kinds of bills, in Parliament, are treated in different ways, the chief distinction being between public and private bills. *Public bills* are those which are of general importance to the country as a whole; *private bills* concern a special locality or person or body of persons. A measure to set up a national health service or to nationalize the coal industry is a public bill, but the East Grinstead Gas and Water Bill, the Manchester Ship Canal Bill, or the North Devon Water Board Bill are all private.

A public bill may be introduced by any Member of Parliament, although only a minister may introduce a money bill. If a public bill is introduced by a minister, it is called a government bill. When a private member introduces it, it is a private member's bill.

#### PUBLIC BILLS

Regardless of its source of inspiration, every bill must be sponsored by a Member of Parlia-

ment who gives notice of his intention to introduce the bill and, at the proper time, gives the bill (or a dummy containing its title) to the clerk who reads the title aloud. This proceeding is known as the *first reading*, and the bill is then printed at government expense and distributed to the Members.

The crucial stage in the life of a bill, however, is the *second reading*. The first reading is automatic: there is no debate and there is no vote. But on the second reading the fundamental principles and purposes of the bill must be explained and debated; and, understandably, the House will not consider the details of the bill until it is certain that it approves of its broad intent.

Most of the bills discussed on second reading are Government bills—that is, they have been approved by the Cabinet and framed with the expert help of the civil service. The motion that they be read a second time is made by a minister, who opens the debate with an explanation and defense of the main provisions of the bill; and the debate then proceeds in accordance with the pattern already described. In conclusion, a leader of the Opposition usually sums up the case against the bill, and a minister makes a closing speech in reply to the attacks.

The vote which is then taken is crucial not only for the bill but for the life of the Cabinet itself, for if a bill sponsored by it should be defeated on second reading, the House would thereby indicate its "lack of confidence" in the Cabinet; and the Prime Minister, in accordance with constitutional practice, would be obliged either to resign or to ask the King to dissolve Parliament and call a new election. Thus it is this debate which attracts the greatest attention both within Parliament and without, and it is on this occasion that the House of Commons comes closest to fitting the traditional picture of a great legislative assembly.

The private member, either of the majority party or of the Opposition, has much more difficulty than the Cabinet in getting a bill read for the second time. Not only does he lack the disciplined following which would assure him a majority, but it is unlikely that he will even be granted the time necessary for the discussion of his bill. The Cabinet, of course, through its control of the majority party can control the

timetable of the House, and it sets aside the time needed to consider the bills which it itself sponsors. But even at best there is comparatively little time provided for the consideration of private members' bills, and in some years the Cabinet takes for its own proposals all of the time available.

As a result, even when time is set aside for private members' bills, it is impossible for every member who would like to introduce a bill to do so. Members have to ballot for the privilege of introducing a bill; and although two hundred and fifty members may take part in the drawing, only those few with the highest numbers have any hope of introducing their bills. The others must try again the next year, and probably the next and the next and the next.

Those who are fortunate enough to win in the drawing are only at the beginning of their troubles. The whips of their party may insist that they introduce bills which the party's leaders wish to have considered. If the member has a bill of his own and persists in introducing it, he must somehow or other manage the technical job of draftsmanship, and he must act as his own floor manager—persuading enough members to attend the discussion of his bill, both on the floor and in committee, to maintain a quorum, and persuading enough members to vote in favor of it so that there will be a majority. Finally, he must be assured of the approval—or at least of the benevolent neutrality—of the leaders of the majority party, for only those bills can receive the approval of the House which they are willing to see approved.<sup>6</sup>

Once a bill has been approved on second reading, it automatically goes to a committee. In the United States, in contrast to British procedure, this stage precedes the second reading, and there is no general discussion or approval of a bill before it is sent to committee. Consequently, there are many more bills to be considered, and it is a common practice for committees to bury

or pigeonhole many of their bills, intentionally or otherwise. In Great Britain, however, once a bill has been approved on second reading, committees are under obligation to consider and report out the bill.

If a bill is sent to a select committee, it must later go to a regular committee as well. If it is sent to a standing committee, it must again be debated in detail by the House of Commons when it is reported out. But if a bill is discussed in Committee of the Whole House, the debate on the *report stage* is brief and perfunctory, since the discussion of its details has already taken place before the House as a whole.

In contrast to the debate on second reading, the debate on the report stage is intended to let the House consider the details of a bill. It is at this time that it may be most necessary to invoke the various closure procedures in order to get through the mass of detailed and technical amendments which may be proposed. Once the debate on the report is concluded, a motion is made that the bill be read a third time. On *third reading* no changes other than purely verbal ones may be proposed: the bill must be voted on as it stands and passed or rejected.

Once accepted by the House of Commons, the bill is sent to the House of Lords or, if it has already passed the House of Lords in the same form, to the King for approval. If the Lords reject the bill or make amendments which the House of Commons is unwilling to accept, the bill is not necessarily lost. By persisting in its original intention, the House of Commons may, after some delay, enact the legislation in spite of the Lords' disapproval (p. 106).

#### PRIVATE BILLS

Individuals or groups who desire the enactment of a private bill (as distinguished from a private member's bill) simply file petitions with an official in each House of Parliament who is called the "Examiner of Petitions for Private Bills" and with the government department which is most directly concerned. Persons whose interests are affected by the bill are notified, and when these conditions have been complied with the bill is read a first time and ordered to be read a second time. Following the second reading, those bills which are unopposed go to a committee on unopposed bills, while the others

<sup>6</sup> These are only the major pitfalls which the private member must avoid. One can find an elaborate and grimly amusing description of the others in Sir A. P. Herbert's book, *The Ayes Have It*, which recounts the author's own difficulties in winning acceptance of a bill for divorce reform. In spite of his exceptionally good luck, it is worth noting that even one so blessed in friends and ability could not get his bill accepted without considerable assistance from the Government of the day.

are sent to a private bills committee which holds elaborate (and expensive) hearings. Each side is represented by paid counsel, and witnesses with an interest in the bill are brought in to testify. The committee members act as impartial judges, and their report to the House of Commons is almost invariably adopted without discussion.

Such committee action saves time, and time is also saved by the device of granting power to government departments in certain classes of cases to issue "provisional orders" giving local authorities the type of permission which would otherwise require a private bill. These are then grouped in *provisional orders confirmation bills* which follow the same procedure as ordinary bills but which are sent to Committee of the Whole House rather than to other committees.

#### FINANCIAL LEGISLATION

Control over the public purse strings is the great traditional weapon of popular defense against executive tyranny, and according to constitutional custom, as reinforced by statute, this power belongs exclusively to the House of Commons. All money bills must be introduced in this House, and since the constitutional crisis of 1911 the House of Lords has had no power to reject a money bill passed by the Commons.

In practice, however, the House of Commons has yielded its financial power to the Cabinet. According to the Standing Orders of the House of Commons, the House may consider no proposal for the expenditure of money which is not recommended by the Crown (that is, the Cabinet); and any proposal to reduce expenditures is considered an indication of lack of confidence in the department whose appropriations are attacked. (In fact, as we have observed, it is customary for an Opposition which disapproves of the policy of any department to turn the debate on appropriations into a debate on policy by proposing that the grant to that department be cut by some insignificant sum.) Thus, unless the Cabinet itself is willing to propose an increase in expenditure or to accept a proposal to reduce appropriations, the budget as originally proposed is adopted unchanged. So strong is the presumption that the budget will be approved in the form presented by the Chancellor of the Exchequer, that the provisions are put into effect

immediately following the speech in which the Chancellor "opens his budget"; and the Chancellor and his colleagues are bound by so strong an obligation of secrecy before the delivery of the speech (in order to prevent the possibility that someone might profiteer from the possession of inside information) that, in the fall of 1947, even the inadvertent revealing of certain budgetary proposals a few minutes before the speech entailed the prompt resignation of the Chancellor, Hugh Dalton. A graver indiscretion by James Thomas, Chancellor of the Exchequer in 1936, abruptly and permanently terminated his parliamentary career.

The consequence of this system is to ensure the enactment of an expertly prepared budget at the price of effective parliamentary participation in its formulation. All financial proposals are carefully planned by government experts, and although proposals for expenditure and for raising revenue are considered separately in Parliament (expenditures are considered in Committee of the Whole House in supply and the raising of revenue in Committee of the Whole House in Ways and Means), the two types of proposal are co-ordinated in advance and they are enacted in an Appropriation Act and a Finance Act which have been planned as part of a single financial program.

This procedure is calculated to rouse considerable envy in the breasts of American officials. In the United States, as in Great Britain, the executive may prepare a careful plan for balancing revenue and expenditure, but the United States Congress is its own master in budgetary as in other matters. Once the President's financial proposals have been thrown to the legislative wolves in the House of Representatives and, later, in the Senate, Congressmen are likely to make full use of their powers. Unpopular taxes may be cut, special expenditures demanded by powerful pressure groups may be added, executive departments which have incurred Congressional wrath may find their appropriations drastically reduced, and the most carefully laid plans of the administration may be disrupted. During the debates on the budget many an executive agency lives in a condition of the tensest anxiety, wondering whether it may be eliminated entirely through the loss of its appropriations—a situation which is hardly cal-

culated to encourage able men to enter public service. And there are times when any resemblance between plans for expenditure and plans for revenue seems to be chiefly coincidental.

But if Americans sometimes look at the British system with envy, a considerable number of Englishmen are far from sharing their admiration. Undoubtedly, one of the most important elements in the "decline of Parliament" is the removal of this critical subject from effective Parliamentary control. Debate on the budgets loses much of its point when the major provisions are predetermined; and as the debate shifts from finance as such to a discussion of the policy of the departments asking appropriations, the ordinary Member is deprived of an opportunity to acquire a clear understanding of financial policy in general.

### *The Private Member*

The combination of party discipline and effective rules of closure makes Parliament a remarkably efficient body in the sense of getting work done; and the most vaunted advantage of the British parliamentary system is its freedom from the sort of deadlock between executive and legislature which recurs so frequently in the United States. A good many Englishmen, however, believe that the efficiency of Parliament is purchased at too high a price. It is possible, as it is not possible in the United States, for the government to draw up a coherent and well-planned program of legislation in the knowledge that it will pass through the legislature without serious mutilation. But the immunity of such legislative proposals is possible only because of the relative impotence of the ordinary Member of Parliament.

Because of limitations on time, the average Member has no opportunity to introduce a bill of his own, and his chances of participating in an important debate are slim indeed. Moreover, the ties of party discipline are so tight that only the exceptional Member dares to disregard the prescription of the party whips, and it is the exceptional issue on which the party whips have nothing to prescribe. On one of these rare occasions (when the House of Commons, on October 29, 1946, voted on a resolution calling for a Royal Commission to investigate the Press and

when the Labor Party granted its members permission to vote as they pleased) Mr. W. J. Brown, one of the very few independent Members of Parliament, could remark:

This is a very remarkable day. It is the first day since July of last year, and, indeed, for a good many years before then, that the freely elected representatives of free constituencies of free Englishmen, Scotsmen, and Welshmen, are to be left free, by the Government of the day, to vote as they think fit on an important issue coming before this House. Yesterday we were not free; today we are free. Tomorrow freedom will have departed again. And as it departs I imagine that we shall hear its spirit pathetically complaining:

"If I was so soon to be done for  
I wonder what I was begun for?"

Occasionally a Member may deviate from party prescription with impunity, particularly if the matter is one of conscience and if there is no question of loyalty to the party's purposes in general. Even then, however, it is safer to refrain from voting altogether than to walk into the lobby of the opposing party. The Member who deviates at all frequently must prepare to meet a sterner challenge; and in consequence it is the normal thing for party lines to hold firm in every division and for Members to troop obediently into the proper lobby in response to the summons of the whip.

### THE BASES OF PARTY DISCIPLINE

There are several reasons for this remarkable discipline. In the first place, the party member who regularly and intentionally defied the leadership of his party would almost certainly lose the support of the party organization in the next election, and he might be formally expelled from his party, as Mr. Platts-Mills and Mr. Edwards were expelled from the Labor Party in 1948, and Mr. Zilliacus in 1949 (see p. 50). Here it must be remembered that the ordinary Member is elected, not because of his own qualities or virtues but because he belongs to a particular party and is a supporter of its leader. If he defies the party and its leadership, his local organization is almost certain (very rarely there is an exception) to turn against him and to choose a more obedient candidate. And even if a rebel has considerable personal appeal and support of



his own, the fact that his party will enter a candidate against him and thereby split the party's normal vote is an almost certain guarantee of defeat.

Behind the cruder weapons of party discipline, however, there are certain psychological considerations which exert a strong influence upon the private member. Thus he knows that if he votes against the policy of his party when it is in power, and if enough of his fellows join him, the party will be defeated and will be forced, according to constitutional convention, to resign or to dissolve Parliament and call a new election. Neither alternative is attractive. A new election would oblige the member to fight for his seat all over again, and elections are expensive and victory far from sure. Moreover, a party which is obliged to fight an election as the result of a split in its forces in Parliament is in an extremely vulnerable position. Its members are likely to attack one another more vigorously than they attack the Opposition, and only the Opposition profits. The Liberal Party lost its power largely because of repeated splits in its ranks, and Labor's disastrous defeat of 1931 followed a similar cleavage in the party.

But if the prospect of a new election is bad, the prospect of a Cabinet resignation usually is worse. A member of a party may disagree bitterly with his leaders on one issue or even on four or five, but that is a very different thing from wanting the Opposition to take over the government. If he disagrees with his own party on even 20 per cent of its policies, he probably disagrees with the Opposition on 90 or 95 per cent. For the discontented members of a party are usually those who are on the extremes furthest away from the principal opposition. Thus the most disgruntled members of the Conservative Party are generally the reactionary Tories who may dislike the moderation of their own party but who turn apoplectic at the thought of bringing Labor into power; and the most dissatisfied of Labor's followers are the ones who are most radical and who would die before they would help to establish a Conservative government. Even if they disagree with their party leadership on an important issue, the knowledge that a serious defection would cause its resignation and bring the hated enemy into power is enough to make most of them swallow their scruples and go into

the correct lobby. Thus even when Aneurin Bevan left the Cabinet in 1951 and bitterly criticized certain government policies, he continued to vote for Labor measures. Similarly at the Labor conference prior to the 1951 election Bevan and Attlee stood together for the sake of party victory, though it remained clear, that if that victory were attained, each would again pursue his own particular policy.

Often, of course, if there is an important amount of resentment in party ranks, the leaders will be warned by the whips and some concessions may be made; for resentment in the party may be an indication of resentment among the public as a whole, and the party's leaders are always concerned with success at the next election. But if the leaders decide to hold firm, they can do so.

One example may illustrate their power in extreme cases: in March 1944 a new education bill was under consideration, and an amendment calling for equal pay for men and women teachers was proposed by a supporter of the Cabinet, Mrs. Cazalet Keir, and won widespread approval—for in Great Britain Members of Parliament remember that more than half the voters are women. The Cabinet, however, refused to yield on the point, and many of its supporters, forced to choose between it and the principle of equality for women, either refrained from voting or actually went into the wrong lobby. As a result, the amendment was carried by a vote of 117 to 116 on March 28.

The following day Prime Minister Churchill himself announced to the House of Commons that unless it reversed itself he would be obliged to regard the action as a refusal of confidence in his government and that the "usual constitutional consequences" (resignation or dissolution) would follow. This was a time when World War II was at a critical stage and the opening of a second front was anticipated at any moment. No one desired a Cabinet crisis, no one wanted a general election, and no one wished to see Mr. Churchill abandon the leadership of the war effort. Yet the price of keeping him in office was the defeat of the amendment. With a certain amount of understandable bitterness most of the Members of Parliament who had voted for the amendment, led by Mrs. Cazalet Kier herself, reversed themselves and voted



against their convictions. Something of their reasons appeared in Mrs. Keir's short speech of March 30:

The Prime Minister has left no possible course open to us other than to support him in this Vote of Confidence. I shall vote against the Clause embodying my own Amendment, not because my views have changed on equal pay, but because more vital issues have been superimposed upon it. In this great democracy of ours, convention, for once, seems to have overruled common sense. I believe in the Clause as it stands, but I shall vote against it to show my measureless confidence in the Prime Minister now, in view of the stupendous days that lie ahead.

Lest it be thought that it was only the war-time crisis which influenced Mrs. Keir, it should be noted that she had already had some experience with this type of statement. On April 1, 1936, the House of Commons defeated the Government on the issue of equal pay for women in the civil service by a margin of 156 to 148. On April 6, the Prime Minister (Mr. Baldwin) announced that he could not accept the House's action, saying, ". . . we must ask for the support of the House as a matter of confidence. . . . I hope that those who still have confidence in the Government will . . . support the Government in the Lobby to-night." Mrs. Keir (then Miss Cazalet) followed her party in peace as in war, with the statement:

I voted against the Government twice last Wednesday, and I did so because I believed in the principle and justice of the Amendment. . . . I am sorry that it has been thought necessary to make the vote tonight a Vote of Confidence in the Government, but since it has been thought necessary, I shall certainly vote for the Government because, no matter what my views may be in regard to equal pay, I think it is of vital importance that the National Government should be in power during this serious period of our history.

To the ordinary party member the retention of his party in power is likely always to be of vital importance, and every period of history is likely to appear serious.

For those few Members who are able to vote against the leaders of the great parties without losing their seats, the path of opposition is a lonely one. It sometimes leads to great personal distinction, but it rarely leads to power. The

independent generally condemns himself to a life passed in the wilderness of the back benches where his voice, however eloquent, is disregarded. Only in exceptional circumstances (there have been a few) will he be invited to take a position in the Cabinet, and ordinarily the price of such an invitation is a return to complete party orthodoxy.

Yet the man of ability and ambition is impressed by the relative futility of a role in which he is always in opposition and always outvoted, in which he is perpetually the critic and never the leader. He would like to try his hand at framing legislation and at directing an important government department. Such work, however, is the preserve of Cabinet ministers, and for most men the road to the Cabinet is the road of conformity. Because he had been a vigorous critic of party policy, it took a major war to bring Winston Churchill into the Cabinet; and for those lacking Churchill's talent, prestige, and family connections, the moral seems obvious.

Is the private member therefore condemned to complete impotence? Not exactly. In form he will rarely be able to speak against his party leaders or to vote against them, but in practice his party's leaders are concerned with his opinion, not because he may vote against them but because he may represent a wider popular resentment and because a loss of morale among private members might be a serious threat to victory in the next election. It may be the job of the whips to see that the Members go into the right lobby, but it is also their job to let the party leaders know what the Members are thinking; and if discontent is sufficiently widespread, important concessions or modifications of policy may take place—not in the public glare of the House of Commons but in the privacy of party conferences and Cabinet meetings. Thus in 1935 a Conservative Cabinet commanding an overwhelming majority in the House of Commons abandoned the Hoare-Laval plan (although not the attitude which lay behind it); and in 1934 a Conservative Cabinet with an even stronger majority modified the Incitement to Disaffection Bill because of widespread protest not only among the opposition parties but within the Conservative Party itself. In this sense, then, the anxiety and opposition of pri-

vate members, particularly when there is reason to suppose that this attitude reflects an important sector of public opinion, may have a real effect upon legislation and policy.

#### PRESSURE GROUPS

English commentators occasionally note, with considerable satisfaction, the absence from British political life of those pressure organizations which so frequently are charged with dominating and corrupting American politics—a conclusion which inevitably seems strange to the American who observes how largely the British House of Commons is populated by representatives of trade unions, co-operatives, the Federation of British Industries, and many lesser groups. The fact is, of course, that pressure organizations exist in Great Britain as in the United States, but their legislative influence is exercised in a different manner and with very different results.

In the United States the President's scant control over his own party in Congress and the weakness of party discipline make it possible for pressure groups to approach Congressmen one by one and persuade them that the support of their group is indispensable for re-election. And since the Congressman is dependent upon his own efforts or upon a local party organization for re-election, he is tempted to listen to the spokesmen of pressure groups even when they oppose the policy of his party's leaders. In Great Britain, however, the ordinary Member of Parliament knows that the most important element in his election is the fact that voters approve of his party and its leadership, and no pressure group can provide sufficient support to compensate for the loss of a party label and the endorsement of the party's leader. If he has to choose between antagonizing an interest group and antagonizing the national party organization, he may be unhappy about the necessity of choosing, but the choice is not hard to make. Even if the pressure group should succeed in defeating him, the national party organization can find him another constituency in which to run.

The result is that the pressure group which wants to get somewhere in Great Britain does not waste its time in persuading individual Members to revolt against their party's leaders. Instead, it tries to convince the Cabinet and the

leaders of the party organizations that the party as a whole cannot win an election unless it satisfies the pressure group. This is a much harder task. The party, obviously, is far more powerful than the individual Member and far more difficult to intimidate. The pressure group quite possibly may need the party's support far more than the party needs the support of the pressure group. And, as American experience has shown, it is far more difficult for a pressure group to influence a national election than to influence a series of specially selected local ones.

Of course, some pressure groups are so strong that even a powerful British party will listen to them. But it is in this matter of degree that the great difference between the two countries lies. In the United States small and insignificant groups, making no pretense of representing a majority of the voters, may exert considerable influence; but in Great Britain only the most important interests, in terms of voting power or financial resources, can achieve the same result. For the Cabinet can always declare that an issue is a matter of confidence; and, as we have seen, only rarely will a member desert his party at such a time.

Pressure groups in Great Britain do not ignore the private member, but when they approach him, their aim is to persuade him to inform his party's whips and leaders that his seat will be endangered if the party's policy is not modified. Their hope is that if enough private members bear such tidings, the party's leadership will be impressed. But in such instances pressure groups must offer substantial evidence of public support—a requirement which reduces the effectiveness of that type of special pressure which is difficult to distinguish from bribery or personal intimidation.

#### PARLIAMENT AS A REPRESENTATIVE BODY

Whom, then, does Parliament represent?

One thing, at least, is clear. The Member of Parliament has to consider much in addition to his own judgment and conscience. There are times (as in the case of the resolution asking for a Royal Commission to investigate the Press) when his party leaves him free to choose for himself, and, in addition, he will often agree wholeheartedly with the decision of his party. But if his conscience should lead him into fre-

quent disagreement, and if he should follow his conscience rather than his party, it is extremely unlikely that he would retain his seat.

It might be said, then, that the average Member of Parliament represents his party simply because he does not speak or vote against it. Such a conclusion, however, simply raises the question of whom the party represents, and to this question there is no easy answer. As we have seen, each party has a solid core of support which exerts strong influence on its policy. Labor cannot ignore the trade unions from which it receives most of its membership and money, and the Conservatives cannot ignore the big businessman and the landowner. Yet each party is sensitive to opinion apart from these stalwarts, and nonparty opinion exerts a substantial influence upon party policy.

It is, obviously, only in a very attenuated sense that the private member can be said to represent first of all the voters in his local constituency. In any conflict between party decisions and local opinion, he will almost certainly go with the party—for, if worst comes to worst, it can provide him with another constituency, and it is an unusual local issue, in any case, which will defeat a Member of Parliament if his service is satisfactory in other respects. Moreover, as already pointed out (p. 27) the fact that legal authority is vested in Parliament itself means that Members of Parliament feel a particular responsibility to that institution as the organ of the whole people which ranks higher than their responsibility to their own constituencies. That their responsibilities to Parliament are expressed in line with the will of the party reflects the fact that political power is ultimately in the hands of the electorate.

Private members, however, tend to represent their constituents in another sense, by rendering a great variety of personal services. As one M.P. told the House of Commons on October 9, 1945, "Every M.P., in these times particularly, is regarded by his constituents as a father confessor, a poor man's lawyer, and a citizens' bureau. Last night I attended a meeting in my own constituency at which I had a queue of people wanting advice and assistance in connection with their personal problems, and some of these were very involved indeed. The Member has to master each of these cases. He comes to this House, and

he may have as many as 200 to 300 letters a week."

Members like to list in their campaign literature testimonials from their constituents to the effectiveness of their help with income tax or rationing or pension problems. They are assiduous in the asking of questions in Parliament about local or individual grievances or complaints. And once the pattern has been established, they may be asked for advice on everything from matrimonial difficulties to the choice of a profession.

To some observers this type of service represents a great decline from the former lofty position of the Member of Parliament as a lawmaker of the nation; and certainly there is little to be said in defense of the errand boy in Parliament. Something, however, may be said for the presence in the government of someone whose task it is to express the grievances of even the smallest village and the humblest citizen and to protect their rights and welfare against official infringement, administrative inefficiency, or error.

Thus the Member of Parliament really represents, in his conduct and voting practice, a variety of groups and interests whose relative importance cannot be precisely assessed. If his party's leaders are determined to enforce discipline, he will vote with them. But party policy is itself an interesting balance of intra-party pressures and drives and the interests of those external groups whose support is essential to electoral victory. The result is that, somewhat paradoxically, the individual Member of Parliament is probably less representative of the voters in his local constituency than is the individual Congressman in the United States; but Parliament as a whole is more likely to follow a policy which reflects the desires of the nation as a whole than is the American Congress, since centralized party discipline prevents national interest from being lost sight of in the struggle of an enormous variety of local and special interests.

#### IV. THE HOUSE OF LORDS

The House of Lords has long been the subject of bitter political controversy, not so much

because of the ardor of its defenders as because of the difficulty of agreeing upon a substitute body. Today few people would defend the traditional form and powers of the House of Lords; but any proposed alternative opens the road to infinite disagreement. To understand why, it is necessary to know something of the House of Lords as it has existed in the past, and as it functions at the present time.

### ***Composition of the House of Lords***

Most of the popular criticism of the House of Lords has risen from the anachronistic position of so aristocratic a body in a progressive democracy. The overwhelming majority of its eight hundred odd members hold their seats not because of any popular demand for their services, nor because of any marked capacity for legislative work, nor even because of any outstanding personal achievement or intelligence (although some of the peers have been extremely able and intelligent). Rather, most of the members hold their seats as the result of chance: more than ninety per cent of them simply happen to be the eldest son of the eldest son (for no woman is allowed to sit in the House of Lords) back to an ancestor who was first created a nobleman. Personal intelligence or stupidity, a devotion to, neglect of, or complete indifference toward the public welfare have had nothing to do with the case. The wisest and the most foolish men in England would both sit in the House of Lords if they happened to be the eldest sons of hereditary noblemen. Those most unhappy about this situation, in fact, are rising politicians like Quintin Hogg, who had no choice but to take a seat in the House of Lords when his father died in 1950, just after Hogg himself had been returned to the House of Commons and who thus renounced perforce any hope of ultimately becoming Prime Minister, an office now firmly in the keeping of the House of Commons.

In addition to hereditary peers, the House of Lords includes princes of the blood royal (who are very few in number and take no part in political controversy); twenty-six lords spiritual (the archbishops of Canterbury and York, the bishops of London, Durham and Winchester, and the twenty-one bishops next in seniority of service); nine lords of appeal in ordinary (the

"law lords," whose seats are held for life and may not be inherited); sixteen peers representing the peers of Scotland; and the survivors of the twenty-eight representative Irish peers who held seats in 1922.

Among right-wing Conservatives it is natural to regard such a House as one of the glories of British government. To them the peers, as the descendants of the men who have made Great Britain great, are the living symbol of the finest traditions of national history. Their family interests and heritage are supposed to be identical with those of the nation; their prestige and wealth place them above those temptations and selfish ambitions which harass ordinary mortals; and they have been reared in a tradition of service and devotion to the public welfare which renders them peculiarly qualified to act as trustees of the nation as a whole.

In attacking this picture, Labor's spokesmen like to point out that relatively few peers are descended from Great Britain's ancient noble families. Almost half of the peerages have been created since 1906; only one in fifteen dates from 1689, and only one in fifty from 1485. Of the present members of the Lords 160 were once commoners who have been raised to the peerage.

It is not so much the lack of antiquity which distresses Labor, however, as the manner in which most of the newer peers have won their titles. Every year on New Year's Day and on the King's birthday, as well as on special occasions like a coronation or jubilee, it still is customary for several individuals to be raised to the peerage in recognition of their public services. Among those thus honored there may be distinguished elder statesmen (by custom any former Prime Minister who retires from the House of Commons is offered a peerage), diplomats, administrators, generals, poets, scholars—indeed anyone who has contributed to the glory of the British name. Thus Lord Beveridge, author of the famous social insurance report; Lord Simon, ex-Foreign Minister; and Lord Lindsay, Master of Balliol College, Oxford, and a distinguished political scientist, are all "Lords of the first creation." However, until Labor came into power in 1945, the great majority of the new peers were drawn from the wealthier classes in the community. It used to be charged rather freely in the opening decades of the present cen-

tury that men were raised to the peerage in fact, if not in form, because of liberal contributions to the campaign funds of the Conservative and Liberal parties. A man of wealth who desired a title, according to the allegation, might contribute publicly to a worthy charity and privately to a party fund; and when a title was conferred upon him in recognition of his philanthropies, there was room for doubt as to which philanthropy his sponsors had in mind. The Prime Minister (upon whose recommendation the King grants peerages) never took a personal part in the financial transaction; but the custom of seeking the advice of party whips opened his recommendations to suspicion.

Today no one is allowed to offer to buy or sell a peerage or other honor, and a committee of the Privy Council inspects the names of those to be honored for political services. But if the "sale" of peerages ended, the names of wealthy men did not disappear from the honor lists. On the contrary, the lists of those honored from 1931 to 1939 (while the Conservatives were in power) were conspicuous for the large number of captains of commerce and industry—bankers, brewers, mineowners, press lords, ship owners, railroad directors, and manufacturers of automobiles and chemicals.

#### CRITICISMS OF THE COMPOSITION OF THE HOUSE OF LORDS

A House of Lords so populated, critics declared, is a far cry from the idealized picture of an assemblage of conscientious, unprejudiced, and devoted public servants. Far from taking their legislative duties seriously, the great majority of the peers conscientiously abstain from regular attendance at the Lords' deliberations. Only on rare occasions do so many as one hundred peers put in an appearance; more frequently only a handful take the trouble to attend (a quorum is only three). It must be admitted, however, that such laxness does not detract from the legislative effectiveness of the body. Those peers who make a habit of participating in the debates and votes are generally those who have already had a distinguished career in the House of Commons or in other branches of the public service. Their experience and ability set a standard of debate which could never have been sustained by the absent "backwoodsmen." In the

words of Lord Samuel, the House of Lords is "the only institution in the world which was kept efficient by the persistent absenteeism of the great majority of its members."

More serious is the criticism that a chamber so constituted is bound, consciously or not, to be a prejudiced body. It is not so much representative of wealth and privilege as it *is* wealth and privilege personified. The great landowners and big businessmen who comprise the great majority of its members cannot be expected to look on proposals for radical social and economic reform with conspicuous sympathy. Many of them undoubtedly are perfectly sincere in their belief that any interference with their personal economic interests would also be contrary to the national welfare. But outsiders could be pardoned for assuming that the House of Lords' traditional opposition to temperance legislation was not totally unconnected with the presence in its ranks of representatives of the great brewing interests (often called the Beerage), and that its reluctance to see the coal mines nationalized had some relationship to the feelings of those members who were owners of mines. Few members of the Labor Party forget that the House of Lords emasculated its legislative program between 1929 and 1931, and showed its dislike of progressive measures in 1931 by rejecting an Education bill which would have increased the age-span during which education is free, and in 1933 by reinserting in a Conservative measure a provision for the whipping of juveniles.

The most serious grievance of the critics is the fact that the overwhelming majority of the peers are not just Conservatives, but right-wing Conservatives. Of the Lords in 1949 only seventy-one were declared Liberals and 43 Labor, little more than one-eighth of the total membership. Thus no matter how the popular vote goes in any election, and no matter which party controls the House of Commons, the Conservative Party and, even more serious, its more reactionary members, remain in unchallenged mastery of the upper house. Some peers have frankly agreed with the claim of Lord Balfour that it was the duty of the Lords to see that the Conservative Party "should still control, whether in power or whether in Opposition, the destinies of this great Empire." Accordingly, when the

Conservative Party was in power, its legislative program met no serious interference from the upper house. But whenever the Liberal or Labor Party formed a Cabinet, prior to 1945, its policy found a serious obstacle in the House of Lords. And although it was possible to argue for or against the general desirability of a second chamber, it was difficult to justify a second chamber which worked only half the time and only when certain parties were in power.

### *Powers of the House of Lords*

X The power of the House of Lords to refuse its consent to legislation meant that here alone, in the British system of government, was there any real possibility of deadlock. If the Cabinet and the House of Commons disagreed, one or the other had to give way, either through resignation of the Cabinet or election of a new House of Commons. But if the peers disagreed, little could be done about it: they could not be forced to resign, and (with the exception of the Scottish peers) they were not dependent upon election. Only if the King agreed to appoint enough new peers to override their opposition could they be forced to submit; and no King was likely to agree to so drastic a solution without first insisting on a new election of the House of Commons, nor, in any case, was the appointment of several hundred new peers a practical solution.

Because of this danger of deadlock, several restrictions, formal and informal, grew up. It was understood, in the first place, that no defeat in the House of Lords could force a Cabinet out of office. Secondly, it was long understood that the peers should not reject or modify financial legislation contrary to the desire of the House of Commons. When, in 1909, the peers did reject the famous Lloyd George budget, the resulting constitutional crisis eventuated in the Parliament Act of 1911, according to which no money bill could be rejected by the House of Lords. A money bill which did not receive its approval merely lay on the table for one month and then was sent to the King for signature just as though it had been accepted.

A more general limitation was also a part of the act of 1911, which provided that the House of Commons could override the opposition of

the Lords by passing the bill in question three times in three successive sessions in not less than two years, a provision which substituted a power of delay for the earlier power to defeat legislation.

In addition to the formal limitations of the Act of 1911, there was an understanding that the House of Lords ought not to defeat a measure which had received the explicit endorsement of the people at the preceding election (that is, for which there was a "mandate").

### THE LORDS AND THE LABOR PARTY

Because of these restrictions, a popular belief grew up that the House of Lords had lost its power and its political importance. Leaders of the Labor Party continued to maintain, however, that the restrictions were more apparent than real. In the first place, "money bills" were defined so narrowly that it is doubtful whether even the budget of 1909, the rejection of which precipitated the struggle over the Lords' powers, would have fitted the definition; and certainly most of the reforms which Labor hoped to achieve could not be passed as money bills. In addition, the requirements for overriding the "veto" on ordinary legislation promised to be more formidable than at first appeared. Legally, elections must be held every five years at most, and the normal interval is likely to be a little more than four. If several months were required to draft a piece of legislation and if the House of Lords then held it up for at least two years, there would be comparatively little time to set up the administrative machinery and provide the electorate with some experience by which to judge the legislation before a new election would have to be held. Spokesmen for Labor used to point out that if the party came into office with a pledge to take prompt action to remedy economic injustices, it could not afford to wait around for three or four years before taking the promised action, and it could not afford to face the people after four years unless it had definite achievements to its credit. Accordingly, in 1935 the party's election manifesto warned:

Labour seeks a mandate to carry out this programme by constitutional and democratic means, and with this end in view it seeks power to abolish the House of Lords and improve the procedure of the House of Commons.



Its 1945 manifesto read: "... we give clear notice that we will not tolerate obstruction of the people's will by the House of Lords." There was no clear statement of what the party would do, but the Lords were aware, when Labor triumphed in the 1945 election, that the rejection of any important part of Labor's legislative program would precipitate a violent constitutional crisis. Accordingly, Viscount Cranborne, the Conservative leader in the House of Lords, said of Labor's program:

Whatever our personal views, we should frankly recognize that these proposals were put before the country at the recent General Election and that the people of this country, with full knowledge of these proposals, returned the Labour Party to power. The Government may, therefore, I think, fairly claim that they have a mandate to introduce these proposals. I believe that it would be constitutionally wrong, when the country has so recently expressed its view, for this House to oppose proposals which have been definitely put before the electorate.

As a result, the Lords did not defeat any measure which had been a part of Labor's program. Viscount Simon, at the time of the debate on the Trade Disputes and Trade Unions bill (which happened to be a particularly bitter pill for the Lords to swallow), suggested that it would be difficult to prove that every item in Labor's electoral program necessarily had the support of a majority of the people and that the mandate was at best "a sort of a mandate," but he agreed that even this "sort of a mandate" ought to be accepted.

By 1947, however, the situation was becoming more strained. As the Government's term of office lengthened, less was heard about its "mandate" in the Lords and more from the Conservatives about the delaying and revising function of the House of Lords. Attention focused on the fact that the House of Lords has one important power which is as great as that of the Commons: it can reject or withhold consent from the statutory rules and orders through which the broad principles of legislation are given detailed application (see p. 136). These rules and orders form the major means, in fact, through which government is carried on and therefore, as a Conservative spokesman pointed out in 1948, a full use of this power by the House of Lords "could reduce government to a nullity."

At the time of the foreign exchange crisis in August 1947, the House of Lords went so far as to propose debating governmental orders at a time the Commons were not in session. Coupled with this challenge was the Labor Party's own internal division over nationalizing the iron and steel industry. When the demands of the left wing of the Party could no longer be resisted, it seemed necessary to clear the way for passage of the measure in the fourth year of the Labor Government's term of office by cutting down the length of time during which the Lords would have a suspensive veto.

The outcome was the Parliament Act of 1949 (introduced in November 1947 and passed over the Lords' veto two years later) which modified the procedure of the Parliament Act of 1911. A bill may now become law despite the opposition of the House of Lords if it has been passed by the House of Commons in two successive sessions (instead of three as in the 1911 Act), and if one year (instead of two) has elapsed between the date of the first Second Reading in the House of Commons and the final date on which the bill is passed by the House of Commons for the second time.

Few issues have created more furor in Great Britain in recent times than this measure for further reducing the influence of the House of Lords in legislation (see p. 27). Yet more surprising than the furor was the remarkable unanimity with which all groups agreed that a second chamber is a necessary part of the British machinery of government, despite their inability to agree on how to reform a chamber that everyone admits is an anachronism in a modern democratic state.

The Parliament Act of 1911 had been passed, in fact, on the assumption that the Lords would be replaced by "a Second Chamber constituted on a popular instead of hereditary basis." But the Bryce Committee on the Reform of the Second Chamber, which reported in 1918 after a careful and detailed inquiry, found itself in the dilemma which still confronts reformers. The composition of the second chamber can hardly be changed without giving it a more intelligible basis of membership, and making it more active; yet both moves would tend to make the Lords a greater rival to the House of Commons. Thus proposals for powers which the conservatives



criticized as inadequate were already rejected by the progressives as too great; while the indirect method of election proposed by the Bryce Committee would have produced members whom conservatives scorned as not aristocratic enough and progressives termed undemocratic. The all-party conference of 1948, which met under the chairmanship of the Prime Minister, Mr. Attlee, reached a measure of agreement: no one party should have a permanent majority; hereditary membership (although not the representation of hereditary peers) should be abolished; appointment should be on grounds of "personal distinction of public service"; women should be allowed to serve; members should be paid salaries; and those members who neglect their duties should be disqualified. It was similarly agreed that "the Second Chamber should be complementary to and not a rival to the Lower House." But on the fundamental question of the exact powers of a reconstituted House of Lords, it proved impossible to secure an agreement.

### *Functions of the House of Lords*

To understand the basis of disagreement it is necessary to consider the existing functions of the House of Lords.

In the first place, the House of Lords is the highest court of appeal in the Kingdom. During its sittings as a court, however, only the nine law lords, the Lord Chancellor, and any members who hold or who have held high judicial office take part in the proceedings.

In addition, it performs several services of great usefulness to the House of Commons: its private bills committees (whose work, of course, is judicial rather than legislative) relieve the Commons of the work of considering many private bills, and it also assists in the work of considering Provisional Order bills and special orders. Furthermore, the House of Lords conserves some of the Commons' time by initiating bills which are more or less noncontroversial in nature and which can be passed through the House of Commons with little discussion if they have been thoroughly discussed and put into shape by the Lords.

<sup>1</sup> For consideration of the House of Lords as a Court of Appeals, see p. 187.

However, the House of Lords has four functions of considerably greater parliamentary significance. Its action in examining and revising bills passed by the House of Commons has gained in significance as the Commons have become more seriously pressed for time and more highly disciplined. Among the Lords are men with experience in earlier Cabinets and in the House of Commons or men who have served as diplomats and administrators or have had great practical experience in business and industry. And the pressure on their time is not nearly so great, nor do they need to worry about impressing their constituents or appeasing party whips and playing to the galleries since, in any case, their seats are safe. They can, accordingly, engage in intimate, practical, and highly intelligent discussion and criticism. Particularly at a time when the amount of technical legislation prevents the House of Commons from giving adequate consideration to the bills it passes, the House of Lords has proved extremely useful as a chamber of revision.

The same qualities of experience and independence make the House of Lords an excellent body for the discussion of nonlegislative issues which the Commons are too busy to discuss or which party leaders may consider too explosive to touch. Thus the Lords may anticipate important questions, prepare the public for their consideration, and educate public opinion in the merits of different positions.

A further, potentially significant function of the House of Lords, as we have seen, is its consideration of statutory rules and orders issued under the authority of a law. Despite the concern about this power evidenced in 1947, there has been no move to eliminate it.

Controversy centered, in fact, on the fourth of the legislative functions of the House of Lords: its power to interpose delay in the enactment of legislation. No one questions that one of the fundamental purposes of a second chamber is to slow up the passage of legislation in any instance in which the other house seems to be acting without popular authorization or in opposition to public opinion; "to provide a breathing space to enable the British people to make up their minds" as the Marquis of Salisbury worded it. But for how long should the

House of Lords be able to hold up legislation passed by the House of Commons, and under what circumstances? Mr. Churchill maintained the view that all controversial legislation should be passed in the first two years of a Government's term of office, and that thereafter the House of Lords should act as a brake to radical change (such as nationalizing iron and steel), until such time as the "engine of the popular will is refueled by popular election." Mr. Attlee retorted that this would mean that "the engine had to go to be repaired every five years for a Conservative Government and every two years when a Labor Government was in power."

In the all-party conference, the Conservatives insisted that as a minimum the Lords should be able to interpose eighteen months' delay after the second reading of the measure; they refused Labor's compromise suggestion of nine months from third reading (frequently more than three months after second reading). Labor then returned to its original proposal and in-

sisted on no more than one year's delay after second reading. As might have been expected, the first measure passed under the Parliament Act of 1949 was the Iron and Steel Nationalization Act, 1949, though, in response to persistent opposition, its final implementation was postponed till after the General Election of 1950.

Thus the House of Lords remains its old self except that its suspensive veto on legislation has been shortened in time. In one of the most advanced democracies of the day, a body based on what everyone agrees is an indefensible principle continues to share lawmaking functions with the House of Commons. It is true that by an ingenious device its functions of revision and delay have been retained while the power to thwart the will of the popular house has been limited to the final year of a Government's term of office. Yet this compromise meets the whole-hearted approval of neither Conservatives nor Labor and is unlikely to be the final settlement of a perennial problem.

## CHAPTER 5

# The British Cabinet, Prime Minister, and King

### I. THE CABINET

The Cabinet is one of the typical anomalies of British politics. It is the center of governmental authority, the body which controls the House of Commons and which directs the administrative apparatus of the state. Yet one can search the law through without finding more than incidental references to it or to its leader, the Prime Minister. Its power arises not from any formal delegation of authority but from its ability to force those who do hold legal power—the Parliament, the King, the Privy Council, and the permanent administrative staff—to do what it wants them to do.

In form the Cabinet is a group of royal advisers which grew out of the Royal Household and the Privy Council much as the Privy Council itself descended from the Great Council of the Norman Kings by way of the *Curia Regis* and the Permanent Council. Every Cabinet minister still is appointed to the Privy Council; and since membership in the council is for life, the Privy Council is a very large body which includes the leading members of all the parties who have held Cabinet office, together with certain high administrative officials, leaders of the Church of England, and a number of writers, scientists, and others who have been honored by appointment to the Council. The Council as a whole never meets except for purely ceremonial occasions. But there are many occasions when three or four members of the Cabinet come together, usually at Buckingham Palace and ordinarily with the King in attendance, and transact business in the name of the Council as a whole. Its most important function is the issuing of "orders in Council," a great variety of executive

orders many of which are a form of "delegated legislation," representing an exercise of general authority granted by act of Parliament.<sup>1</sup>

### *What the Cabinet Is*

If in form the Cabinet is a group of royal advisers, in practice it is a very special kind of group. Far from having a free hand in appointing its members, the King must choose as Prime Minister the leader of the party which commands a majority in the House of Commons; and the remaining Cabinet appointments are made according to the advice of the Prime Minister. Once appointed, of course, it is the Cabinet which decides policy, and the King is expected always to follow its advice.

It is sometimes said, therefore, that the Cabinet is really a committee made up of the leaders of the majority party in the House of Commons together with a few members of the same party who sit in the House of Lords.<sup>2</sup> As already pointed out (p. 27), however, this is a misconception. The Cabinet has the power to summon and to dissolve the body from which most of its members are chosen; it initiates and organizes the legislative program; and, in effect, it controls the House of Commons instead of being controlled by it, since its members control the party which controls the House of Commons. In short, a group which appears dependent

<sup>1</sup> For a fuller discussion of delegated legislation, see pp. 135-36. For the work of the Judicial Committee of the Privy Council, see p. 187.

<sup>2</sup> In unusual cases, as in time of grave national crisis or when no party has a clear majority in Parliament, the Cabinet may include representatives from several parties, or the leader of a minority party may be asked to form a government. In such cases, the Cabinet still must command the support of the House of Commons.

upon the King and the House of Commons in fact dominates them both.

Clearly, then, the position of the British Cabinet is very different from that of the American Cabinet. In the United States most Cabinet members are not chosen from Congress, and those who are must resign their seats in Congress. Once in the Cabinet, they are responsible only to the President. Congress may reject their proposals and attack their policies, but if the President is contented with their work, they remain in office. Indeed, the President and the majority of Congressmen may belong to different parties; but Congress has no way, short of impeachment, of forcing either the President or his Cabinet out of office, and it is possible for the Congress and the President to continue at a deadlock for months on end where, in Great Britain, such a deadlock would be resolved immediately either by resignation of the Cabinet or by a new election. In short, while the American Cabinet is dependent upon the President, the British Cabinet is not dependent upon the King; where the American Cabinet does not control (nor is controlled by) Congress, the ordinary British Cabinet has complete control of the House of Commons.

### *The Membership of the Cabinet*

When a new Prime Minister is appointed, he has to fill about seventy posts, major and minor, which together make up the "Ministry." About twenty of the most important of these are regarded as "Cabinet" positions. They are not always the same ones, but the Prime Minister himself, the Chancellor of the Exchequer, the Secretary of State for the Home Department, the Secretary of State for Foreign Affairs, the Secretaries of State for Commonwealth Relations, for the Colonies, and for Scotland, the Lord Chancellor, the President of the Board of Trade, and the Ministers of Defense, of Agriculture and Fisheries, and of Labor generally will be among them. Men of great political importance but lesser administrative ability, elder statesmen, or men whose time should be free for committee work and the integration of policy may be given positions whose duties are light or nonexistent: Lord President of the Council, Lord Privy Seal, or Minister without

Portfolio. Ministers charged with matters which are temporarily of first-rate importance may become members of the Cabinet as the need arises and may be dropped when the need is over. After the election of 1945, for example, the Minister of Fuel and Power (who was to direct the nationalization of the coal mines), the Minister of Education (who had to put the new education law into effect), and the Minister of Health (who had to take action to meet the housing crisis) were added to the Cabinet, although they had not been in the Cabinet in the preceding Ministry. The Minister of Fuel and Power was subsequently dropped from the Cabinet in 1947 after nationalization of the coal mines had been carried through.

In addition to those ministers who are members of the Cabinet, certain ministers may be designated as "of Cabinet rank." This designation means that they are invited to attend Cabinet meetings when the affairs of their own departments are under consideration; and there are rare occasions when as many as thirty Cabinet members and ministers of Cabinet rank may be present at Cabinet meetings, although so large a body is generally regarded as too unwieldy to work effectively.

Finally, there are certain parliamentary under-secretaries and other ministers: the Undersecretary of State for Home Affairs, the Undersecretary of State for Foreign Affairs, the Parliamentary and Financial Secretaries of the Admiralty, the Parliamentary Secretary of the Ministry of Health, the Junior Lords of the Treasury (who act as party whips) and others. The holders of such posts often are younger men whose ability is being tested in preparation for higher posts. Similarly, parliamentary private secretaries, though of course not in the Ministry, get the chance to demonstrate their capacity for higher offices.

### APPOINTMENT OF MEMBERS OF THE CABINET

The Prime Minister's task in choosing his Cabinet is very different from that of the American President. In the United States the President may choose whomever he pleases, subject to confirmation by the Senate. Few Cabinet members are chosen from Congress; several may have had little or no part in public life. It is unusual to have more than one or two of the

most conspicuous and popular party leaders in the Cabinet, and a large majority of the Cabinet, when first appointed, may be relatively unfamiliar to the public at large and also almost unknown to each other, a fact which makes it difficult for them to work together as a team. It even happens sometimes that Cabinet members belong to the opposition party as when Henry Stimson, a Republican, was Secretary of War under President Roosevelt. Thus the field from which they may be drawn is so large, and the President is so little restrained in his selection, that speculation about the composition of a new President's Cabinet is a popular sport of political analysts and gossip writers after every election.

In Great Britain there is far less opportunity for this pastime. In form, the Prime Minister has complete authority to select whomever he pleases, since the King will make appointments upon his advice alone. But in practice, every outstanding leader of the majority party who holds a seat in Parliament expects, and is expected, to be in the Cabinet. In rare cases they are disappointed, although there is usually some perfectly obvious political reason for the omission. But there are always several party leaders who are so important that, in effect, they "choose themselves"; and anyone can tell, before an election, the names of at least half a dozen men in each party who inevitably will be in the Cabinet if their party wins. American political leaders may consider the governorship of a state or a seat in the Senate to be a position of greater power and prestige than membership in the Cabinet; but the dominant position of the British Cabinet makes it the logical goal for every ambitious statesman, and to keep an able and popular leader out of the British Cabinet would be to encourage dissatisfaction and even dissension within the majority party.

The Prime Minister's power is considerably freer when it comes to deciding which man shall receive which post, although even here a few men may be important enough to insist upon a specific appointment. The Prime Minister also has a relatively free hand in deciding which of the party's less conspicuous or younger men shall receive posts in the Government. Thus any announcement of Cabinet appointments or changes is likely to include several surprises.

Yet it is commonly assumed that the inner group of party leaders takes an active part in making these decisions.

In choosing members of the Cabinet, several qualities have to be considered. The man who is to head a department should have had considerable experience in the House of Commons and should have demonstrated his ability to take care of himself in debate and during the question period; for much of the Government's success in the next election will depend upon its ability to meet the constant, varied, and vigorous assaults of the Opposition on the floor of Parliament. In addition, however, the direction of a department calls for considerable administrative capacity; and the man who has already distinguished himself, in an earlier Ministry, as under-secretary of an important department, may well look forward to promotion to a higher post. Occasionally, however, a party has been out of office for a long time or (as was the case with the first Labor government in 1923) has never held office; it is then necessary to take a chance and later to redistribute posts, perhaps several times, as members reveal their respective talents and failings.

### *Collective Responsibility of Cabinet Members*

The presence in the British Cabinet of the outstanding leaders of a party is perhaps less remarkable than the fact that these leaders subordinate their personal views to a common policy. Americans are so accustomed to seeing the widest, and occasionally the bitterest, disagreement among leaders of the same political party that they would have difficulty imagining a Cabinet which included the leaders of all important party factions—let us say a Republican Cabinet composed of Dewey, Taft, Warren, MacArthur, Stassen, and, for good measure, Col. McCormick—submitting to this sort of discipline. Yet in Great Britain such agreement is the essence of Cabinet responsibility. As Lord Grey (who had been Foreign Secretary from 1905 to 1916) once stated, a Cabinet member should work heartily for Cabinet decisions, should not insist on his personal views in matters which are not essential, should argue for the substance of a proposal rather than its form, and should look for

ways in which his ideas can be reconciled with those of others. He ought not to sacrifice what he thinks essential to the public interest, but he should be more seriously interested in getting the Cabinet to agree than in winning a personal victory. Once a decision is reached, he should never threaten to resign unless the matter is of vital importance and unless he intends to carry out the threat. Thus there may well be serious disagreement and a great deal of discussion before the sense of the meeting becomes apparent; but once there is preponderant opinion in favor of a certain course, the Cabinet as a whole is expected loyally to support that policy.

This ideal can be achieved more readily in Great Britain than in the United States because of the greater homogeneity of the island and the absence of so great a diversity of conflicting interests and attitudes. Further, British party leaders generally are drawn from the same economic and social class, or identify themselves with it in their sympathies and outlook. Among the leaders of the Conservative Party the emphasis which public school education lays on loyalty, discipline, and teamwork is important. Among Labor's leaders the experience which many have had in trade unions imposes a belief in the kind of absolute solidarity which wins strikes and makes collective bargaining possible. Similarly, the fact that the party leaders have had long service together in the House of Commons means that they have had to learn to co-operate closely in the planning of common party strategy and that, from their earliest days in the House of Commons, they have been accustomed to act as a coherent party unit, as symbolized by the disciplined procession into the proper lobby on every important vote. Disagreement may well exist among different wings of the party, but it is the sort of disagreement which finds its fullest expression in party meetings or within the secrecy of Cabinet discussions, rather than in the public glare of parliamentary debate.

Thus, when the Cabinet arrives at a decision, ~~every member, not only of the Cabinet, but of the whole Ministry is expected to accept the decision and, if necessary, to support it publicly. Although a member may not agree with it personally, and may not even have been consulted, so long as he holds his position in the Govern-~~

ment he must vote for it in Parliament and, at a minimum, refrain from criticizing it in public.

In the United States, no one would expect the Secretary of Labor to resign because he disagreed with the policy of the Secretary of State. If the Department of Agriculture embarks on an unpopular policy, no one supposes that the Secretary of the Treasury is to blame. In fact, the President himself is under no obligation to consult with his Cabinet before deciding on even the gravest issues; he may even make a decision to which his entire Cabinet is opposed. But in Great Britain, whether consulted or not, every minister must accept his common responsibility as long as he retains his post.

It is, clearly, only upon this assumption that the British Cabinet system makes sense. Unless the entire body has accepted responsibility for the policy, there is no point in forcing a whole Cabinet out of office when the House of Commons defeats a single measure of a single department. And there is little meaning and much confusion in the voter's choice if he is asked to pass on a party's record and program when prominent leaders of the party accept neither the record nor the program and feel under no obligation to abide by either.<sup>3</sup> Under the system of collective responsibility, party leaders cannot pass the buck or disclaim personal responsibility or blame whatever goes wrong on elements over which they had no control. The control is there, and when an individual minister acts or fails to act, the voter can with justice blame the Cabinet as a whole for the minister's conduct as long as he remains a member of the Cabinet.

Thus it is understood that whenever a Cabinet member makes a statement on any important political problem, whether it concerns his own department or not, he is speaking for the Cabinet as a whole. And it is especially important, therefore, that members should agree in what they say. Lord Melbourne, Prime Minister in 1834 and from 1835 to 1841, is supposed to have put his back to the door, at the end of a Cabinet discussion on the duty on corn (i.e.,

<sup>3</sup> In 1932, the Cabinet, which at that time included members from several parties, announced its famous "agreement to differ" on the issue of free trade and permitted some of its members to vote against the policy of the Government. It was commonly noted at the time that if this practice were to become general, the basis for the Cabinet system of government would be destroyed.

wheat), and to have said: "What are we to say? Is it to make our corn dearer, or cheaper, or to make the price steady? I don't care which: but we had better all be in the same story." The rule still holds.

### What the Cabinet Does

The Cabinet, according to the Report of the Machinery of Government Committee (1918) has three main functions:

- (a) final determination of the policy to be submitted to Parliament;
- (b) supreme control of the national executive in accordance with the policy prescribed by Parliament; and
- (c) continuous co-ordination and delimitation of the authorities of the several Departments of State.

### THE CABINET AS LEGISLATURE

The first of these functions is, obviously, largely a matter of legislation and constitutes a recognition of the fact that, in a time of voluminous and highly technical legislation, the six hundred odd members of the House of Commons are not well fitted to work out a comprehensive and consistent program. Indeed, there is some feeling that even a Cabinet of twenty is too large for the task, and that any Cabinet must depend upon the expert advice and guidance of the civil service. Regardless of its sources of inspiration, however, it is the Cabinet which makes the essential decision of whether or not a specific proposal is to become law. Legislation which it sponsors will be passed (at least by the House of Commons) as long as the Cabinet insists upon its passage; legislation which it opposes is doomed. Thus it is the work of the Cabinet to plan an over-all legislative program, deciding which measures shall occupy the time of Parliament, and in what order. And it is up to the Cabinet to approve the form in which these measures shall be submitted.

Inevitably, then, the Cabinet becomes something of a little legislature; and as its legislative load has grown, it has come face to face with problems of procedure which have confronted Parliament itself, and it has resorted to some of the same remedies.

The demands upon its time are, of course, very great. Its members must be present in Parliament, at least when matters concerning their own departments are under discussion. Their load of departmental work may be very heavy, and they may be expected to spend long hours in committee meetings. Yet they must also find time for the consideration of problems of over-all policy and for the discussion of those proposals which the Government intends to introduce into Parliament.

Ordinarily, the Cabinet as a whole meets only once a week for a period of about two hours, and its work must be organized with extraordinary efficiency if it is to be well done. Until World War I, however, there was considerable reluctance to recognize this need, and procedure in Cabinet meetings was quite informal. Members let the Prime Minister know of any subjects they wanted discussed, and they might, if they wished, circulate memoranda to other members. But there was no agenda or order of business. Usually the Prime Minister asked the Foreign Secretary to speak first, and other members might then bring up subjects in which they were interested. An efficient Prime Minister would try to direct the discussion toward some conclusion, but certain Prime Ministers were notoriously inefficient. Since there was no secretary to keep a record of what transpired or of the decisions which were made, there were frequent occasions when Cabinet members disagreed over what had been decided, and in some cases they had no memory at all. Thus Lord Hartington's private secretary could write to Mr. Gladstone's: "There must have been some decision. . . . My chief has told me to ask you what the devil *was* decided, for he be damned if he knows."

Today, as in the House of Commons, procedure is bound by stricter rules. The proceedings of the Cabinet still are secret, but there is a large *Cabinet Secretariat* or Cabinet Office which, under the direction of the Prime Minister, prepares the agenda for meetings, keeps a careful record of the conclusions, and circulates them to the ministers. A few days before each meeting the agenda must be sent around so that each member will know what is to be discussed, and careful memoranda, describing and explaining the measures under considera-



tion are supposed to be circulated at least five days before proposals are placed on the agenda. There is even a short summary, so that the minister who is bogged down in departmental duties may be familiar with the major points in the argument. In addition, copies of Foreign Office telegrams and dispatches are sent around to the members of the Cabinet to keep them informed of day-to-day developments in foreign policy. All departments directly concerned in a measure (including the Treasury if there are financial provisions) are expected to consult with one another and to work out an agreement for presentation to the Cabinet before the matter is placed on the agenda and the memorandum circulated. Once these departments have come to an agreement, the Cabinet can often dispose of the matter with comparatively little discussion.

It is possible to discern other ways in which the organization of the Cabinet's legislative and policy-making activities have led to devices similar to those developed in the House of Commons. In both bodies the agenda is carefully prepared and control over the agenda is concentrated in comparatively few hands. Thus, where the Cabinet and the whips (in consultation with the Opposition) prepare the program of business for the House, the Prime Minister, with his secretariat, and in consultation with individual ministers, works out the program for the Cabinet; and the Prime Minister as an individual has just as much control over the Cabinet's agenda as the Cabinet itself has over that of the House. Similarly, where the House of Commons has delegated much work to committees, the Cabinet too has set up committees: both *ad hoc* committees to deal with special issues like atomic energy development, and standing committees such as the Defense Committee, the Legislative Committee, the Lord President's Committee to co-ordinate home affairs, the Policy Committee to co-ordinate economic policy, and the Production Committee, all of whose functions tend to be specialized while those of the House of Commons' committees are not. And finally, just as the Cabinet grew up as a directing committee in the House of Commons, an "Inner Cabinet" has come to take a leading part in the Cabinet's work. The Prime Minister and a small group of

the most important ministers tend to consult with one another and to arrive at an agreement before the Cabinet as a whole meets—a procedure which also speeds the transaction of business. In addition, certain of the most important ministers have been given the task of co-ordinating the work and policies of several closely related departments, so that one man may head up all the departments dealing with external relations or defense or economic affairs.

In consequence of such developments there has appeared something of a hierarchy within the Ministry, three or four levels of which may be distinguished: the members of the Inner Cabinet, who often co-ordinate the work of several departments; the other members of the Cabinet; ministers "of Cabinet rank" who do not sit in the Cabinet as a regular matter; and the remaining ministers. Some observers praise this system as a means of achieving a broader understanding of policy and a degree of integration which would be impossible if each Cabinet member concerned himself only with his own department and if an undifferentiated group of twenty or more Cabinet ministers had to work out a general program. Yet the arrangement is not without its critics. It is pointed out that the added authority of the Inner Cabinet has decreased the prestige and importance of the rest of the Cabinet, much as the Cabinet itself has reduced the prestige and importance of the House of Commons. The existence of the different levels may encourage a consciousness of rank, a rivalry for power, and a tendency to pay attention to the views of an individual less because of their intrinsic merit than because of his exalted position. And it is suggested that the system of ministerial responsibility will be damaged as it becomes increasingly difficult to decide whether to attribute a departmental policy to the head of a department or to the member at the top of the hierarchy who supervises the policy of that and related departments.

#### THE CABINET AS ADMINISTRATOR

The second big job of Cabinet members and other ministers is to supervise the carrying out of legislation which has been passed by Parliament and to determine policy where there is no legislation to furnish guidance. This is the traditional function of the executive, but it is

also a function which has become far weightier in recent years. As legislation has become more voluminous and more technical, Parliament, with increasing frequency, has passed laws in skeleton form, leaving it to the Cabinet or the minister to decide on the precise rules, orders, and actions which will give effect to them.

This practice immediately raises the question of whether the ordinary minister is himself capable of making these rules. His presence in the Cabinet often is not so much the result of his technical competence as of his ability to win votes, to speak effectively on the platform or in Parliament, and to plan party strategy. He may have technical competence as well—indeed, there are always some Cabinet members whose presence in the Cabinet is a mystery to those who do not understand that it is due to great administrative capacity rather than to effectiveness on the floor of Parliament. But it is still the exceptional Cabinet member who is a first-class administrator as well.

Under the circumstances, the charge is often made that real power has passed from the Cabinet to members of the permanent civil service, upon whose advice Cabinet members are largely dependent.<sup>4</sup> The ordinary ministerial head of department, it is said, is unlikely to be an expert in the field assigned to him; what information he acquires comes to him through the permanent staff; and it is the rare, if not the rash, individual who would override its recommendations. Some departments are even accused of having a "department policy" which is designed and carried out by the permanent staff regardless of who heads the department or which party is in power. Under such circumstances, the official government would be little more than a puppet, and the real government would be the civil service.

Actually, such a picture is badly exaggerated. In addition to those ministers who combine parliamentary and administrative ability, the system of appointing younger men as junior ministers provides an opportunity, as we have noted, for promising parliamentarians also to be trained in administrative work in preparation for advancement to major posts at a later date.

<sup>4</sup> For a fuller discussion of the relation of ministers and the permanent civil service, see p. 138.

Far more important, however, is the fact that the minister need not be an expert (in the sense of understanding all the technical details of the work of his department) so long as he has access to expert advice, drawn, if possible, from a variety of sources. What is important, rather, is that he should have good judgment both of issues and of men, that he should be able to select the essential elements of a proposal, that he should be able to make up his mind quickly, and that he should be able to foresee the political consequences of his department's policies. This is a job, moreover, which the experienced parliamentarian may be able to do very well. A man who has taken a leading part in the work of Parliament for several years is already a man of broad political experience. In earlier years, as a leader of the Opposition, he may have helped to work out its policy in opposition to that of the Cabinet of the day. If he is a person of any ability, he will have learned what type of action is likely to anger the House and what type of administrative ruling will be difficult to explain or justify. Indeed, if there is any subject on which he can qualify as an expert, it is the gauging of public opinion. The member of the civil service is not elected to office, and his ability to judge public reactions to policy has nothing to do with getting him a job. His personal experience, so far as knowing intimately the problems and desires of different classes, may be exceedingly narrow. It is often hard for him to tell what the public reaction to a measure will be; and since his job is secure, he may not care very greatly.

But a miscalculation of public sentiment is likely to be fatal to the career of the politician, and in nursing his constituency and, on a higher level, sensing the mood of the people's representatives in Parliament, he gains a knowledge of popular desires and reactions, which is invaluable in the work of administration. In the words of Sir William Harcourt, a Liberal M.P. who repeatedly held cabinet office in the late nineteenth century, "The value of the political heads of the departments is to tell the permanent officials what the public will not stand." If a government is to be truly democratic, it would be hard to overestimate this function.

The political head of the department is essential to satisfactory administration in another

respect. So far as the ordinary citizen is concerned, the civil servant is "un-get-at-able." He is not elected by the voter, and he will not be discharged because a voter, or even a majority of the voters, dislikes what he does. The ministerial head of a department, however, is get-at-able in at least two ways. He must submit regularly to the questions of Members of Parliament, and he must keep his eye on the next election. By making the Cabinet member responsible for what goes on in his department, it is possible to make the department itself responsible. If a civil servant abuses his powers or is negligent in his duty, if he injures an ordinary citizen or engages in an unwise or unpopular policy, the minister at the head of his department will have to answer parliamentary questions of a decidedly unpleasant nature. If the action under criticism is a serious one, there may even be a special debate on the subject. The Opposition may present a motion of censure, and the whole country may be roused by the event. In extreme cases the Government may even have to worry about winning the next election. Under the circumstances, the minister who must answer the questions in Parliament, who finds himself pilloried in debate and in the press, or who finds the hive of public resentment swarming about his head will call his departmental subordinates into line and force them to modify the policy which has aroused the storm. Far more frequently, the knowledge that such a storm is possible will prevent the policy from being inaugurated in the first place.

#### THE CABINET AS CO-ORDINATOR

In any country in which so many matters are subject to administrative intervention or control, there is always danger of the growth of those evils which are commonly subsumed under the term "Bureaucracy." The action of one department may affect the work of another. A ruling about health may affect education, labor, agriculture, and still other departments. Two departments may make inconsistent rulings. Conflicts of jurisdiction may arise. Activities may duplicate one another or overlap. The principles and policies upheld by one department may be in flat contradiction to those of another. Most serious of all, there may be no general Cabinet policy which each department carries out, but in-

stead each department may be left to work out its own policy and to compose its differences with other departments without any serious consideration of whether the resultant over-all policy is a policy at all and, if so, a desirable one.

The Cabinet, in its traditional form, is not well suited to this task. There are too many members for effective discussion, and its members often are too preoccupied with the problems of their own departments to see policy as a whole. The Prime Minister himself, in the past, was so busy and possessed such inadequate sources of information that he often seemed an arbitrator between departments rather than an initiator of broad governmental policy.

Such difficulties have encouraged the growth of Cabinet committees which not only prepare legislation, as noted above, but co-ordinate the day-to-day activity and the over-all policy of related departments. Most of the committees have grown up informally to meet specific needs; their membership is flexible, and even their names may change. But their work is indispensable, and today committee work ranks with the administration of individual departments as a major claim upon the time of the minister.

The problem of co-ordination has also brought a marked expansion in the work of the Cabinet Office. Today it is part of its function not just to prepare the agenda for Cabinet meetings and to circulate memoranda but to supply the services of a skilled staff so that both the Prime Minister and the chairmen of committees may draw upon their own corps of expert assistants to supply them with information and advice in integrating the work of their departments.

#### "Cabinet Dictatorship"?

Americans who look at the Cabinet system in operation sometimes conclude that Great Britain lives in fact under a Cabinet dictatorship.<sup>5</sup> The firm control which the Cabinet exerts over the House of Commons (granted that the party from which it is chosen has a clear majority in the House to begin with) means ordinarily that legislation which it is determined to pass is passed and that legislation which it opposes is

<sup>5</sup> *How Britain is Governed* by Ramsay Muir, a British Liberal leader, did much to spread this conception among both the English and foreigners.

lost. It is difficult for public opinion to bring effective pressure to bear on individual issues; and the voter ordinarily must wait until the next election—which may be two or three or four years off and which may involve a great many different issues—before he can register his disapproval. Thus it is sometimes charged that Great Britain practices a form of “plebiscitary democracy” in which people vote “yes” or “no” on the record of the Government in general but are deprived of any share in the formulation of individual policies.

The system has even seemed to facilitate the violation of electoral pledges. Perhaps the most glaring example occurred following the election of 1935, in which the Conservative Party won a heavy majority in the House of Commons on a platform which called for vigorous support of the League of Nations and the system of collective security. The party's election manifesto read in part:

The League of Nations will remain as heretofore the keystone of British foreign policy. . . . We shall therefore continue to do all in our power to uphold the Covenant and to maintain and increase the efficiency of the League. In the present unhappy dispute between Italy and Abyssinia there will be no wavering in the policy we have hitherto pursued.

During the next months, however, the Government followed a policy which helped to undermine the power and prestige of the League and which eventually resulted in the acceptance of the conquest of Abyssinia by Italy in direct violation of the Covenant of the League. There is no way of telling whether or not the Government would have been defeated in a new election on its new policy, for public opinion was badly divided. But what is significant is the fact that the Government was under no necessity of calling a new election, even though it departed from its platform within a few weeks after its great electoral victory. Its majority in the House of Commons was so overwhelming that, despite the defection of a few critical Members, the Government could make a major change in policy, and party discipline could prevent any effective challenge.

In contrast, Americans are likely to think of the fight over reform of the Supreme Court

early in 1937. In the election of November 1936 President Roosevelt had been returned to office with a spectacular majority of the popular vote and with a strong Democratic majority in both Houses of Congress. Yet, when a short time later he proposed the drastic reform of the court, popular opposition was so strong that the proposal could not be carried through Congress. The lack of discipline in the American party system and the vulnerability of individual Congressmen to popular pressure meant that the voters could influence Congress to resist the President, where British voters could hardly have brought the House of Commons to resist the Cabinet.

#### CABINET RESPONSIBILITY

As a result of such occurrences, it is often said that the British government is more efficient than the American because there can never be any danger of the kind of deadlock between the executive and the legislature which haunts the American system; but that the American system is more responsible because the President cannot force through a policy to which public opinion is opposed.

Actually, such a statement is a great oversimplification. Even if the Cabinet is not, as a rule, overthrown by the House of Commons, it is subject to considerable pressure. The ever-present readiness of the Opposition to exploit any weakness, the constant search by the press for an exciting issue, and the knowledge that within five years at most a new election must be held are all serious limitations. The Government may disregard public opinion on a few issues so long as it knows that the public approves its record in general. But if there is widespread public revulsion, and if large numbers of Members of Parliament report that their seats may be endangered in the next election, the Government is quite likely to make concessions. In addition to all these reasons why the charge of Cabinet “dictatorship” is not justified, the British executive has traditionally acted with admirable restraint in its use of power, recognizing that the key to the successful functioning of the parliamentary system is that the House of Commons should have ample opportunity to criticize its policies, and that, in this sense,

the House should be the mouthpiece of public opinion.

In any event, there is a certain superficiality in speaking of responsibility only as the ability of the people to prevent the government from doing what the people do not want it to do. At least as important is the government's ability positively to do what the people want it to do. And here the difference between the two systems is more clearly marked. If the British and the American executives were equally bent on pushing through a policy desired by the majority of the people, the British executive would be far more likely to succeed. Under the American system of separating powers, and checking and balancing them, and with the laxness of party discipline, Congress is only too likely to respond to the efforts, not only of a majority of the people, but of a minority as well. All that a minority group need do to check legislation is to control a single house of Congress or, in some cases, a single committee in a single house of Congress. In Great Britain such a situation would be inconceivable.

The issue may be summarized thus: is it better to have a government which is capable of carrying out the will of the people—but is also capable of carrying through something the people do not will—or is it better to have a government which is so checked and balanced that it is not likely to push through an unpopular program simply because it cannot even push through one which meets only minor opposition? In a period of relative calm there may be something to be said for the second alternative as a way of forcing divergent groups to compose their differences and work out a generally acceptable program. But in times of crisis, whether military or economic, the government which cannot take decisive and prompt action is in danger of breaking down altogether. Ordinarily, in extreme crises, the American Congress has been willing to grant extraordinary power and support to the President. But in times which are grave, if somewhat less critical, the British executive has the great advantage of being able to plan a comprehensive and coherent program and of being able to ensure its enactment, while the American executive too frequently has his proposals rejected by a Congress which is unable to develop a comprehensive policy of its own.

Here, too, however, one has to be careful not to push the parallel too far. Great Britain, it must be remembered, is a country in which there are few important minorities and in which there is less danger of majority tyranny. But in the United States, with its great sectional, racial, religious, and other variations, it is more important that a minority has the power to defend itself. The process of working out a democratic agreement, through discussion and consent, is inevitably a more complicated and difficult matter in a country like the United States; and to say that the American system works less vigorously and effectively under normal circumstances is not to say that it is less well suited to the needs of the American people.

## II. THE PRIME MINISTER

### *The Prime Minister and the Cabinet*

The Prime Minister has been the principal beneficiary of the Cabinet's growth in power. In former days he used to be, in Lord Morley's phrase, *primus inter pares*, first among equals. Today any such designation would be far too modest. Differences in the personalities of different Prime Ministers make generalization dangerous, since things which would be true of a Churchill in time of war are not necessarily true of an Attlee in time of peace. Nevertheless, in the years before the outbreak of World War II, it was increasingly evident that Prime Ministers who were not men of such great stature as to overshadow either their colleagues or the country as a whole had a determining voice in the policy to be followed by their Cabinets.

The Prime Minister still is not the master in his Cabinet that the American President is in his. The Cabinet of the President is essentially a group of advisers, and the President is free to take their advice or to leave it. It is the persuasiveness of the arguments of the members of the Cabinet which is important, not their votes. Lincoln could say, at the end of a Cabinet discussion: "Noes, seven, Ayes, one: the Ayes have it," and his successors retain this power. In fact, as we have noted, the President is not

even obliged to consult his Cabinet before embarking on important measures. As we have seen, the majority of the members of his Cabinet are likely to be relatively obscure politically. They are not the greatest leaders of their party, and in most cases they cannot threaten the President with any serious loss of support if he enters into open conflict with them. But when a British Prime Minister is expected to include in his Cabinet his party's most important leaders, he can less easily brush their opinions aside.

This limitation, however, has not prevented the Prime Minister from gaining greater and greater ascendancy over his colleagues. One can understand, of course, why a man with the experience and personality of a Churchill should dominate his Cabinet. What is remarkable, however, is that even before the war a man like Chamberlain, who had far less popular appeal, held a similar ascendancy over his Cabinet. With the aid of a few advisers chosen from the Cabinet and the civil service, he decided upon and carried out his own policy, not only in the field of foreign relations, but in domestic policy as well. There were times when the Cabinet was not consulted on important matters; and ministers who disagreed with him, like Eden and Duff-Cooper, could resign without shaking his authority.

Chamberlain's two predecessors, Baldwin and MacDonald, exercised similar authority. If Baldwin was somewhat less energetic in pushing his personal views, it was he nevertheless who dominated whenever there was serious disagreement. MacDonald had a more active interest in directing policy, and he has been accused of using his authority over the Cabinet's agenda in an arbitrary way to determine what should be considered in Cabinet meeting and to veto items which displeased him. Attlee as Prime Minister aimed at winning agreement among his colleagues rather than at imposing a decision upon them. Frequently, he was criticized for "not giving a stronger lead." Yet in his sincere, unspectacular way, Attlee was not only decisive but, on occasions, ruthless, a fact which suggests that the office itself creates a certain pattern of behavior for even the most quiet personality.

### *The Sources of the Prime Minister's Strength*

There are several considerations, other than personality, which help to determine the Prime Minister's position inside his Cabinet. For one thing, as the work of administration has become increasingly heavy, Cabinet members have often been so preoccupied with the duties and problems of their own departments as to leave general policy to the Prime Minister and his chosen advisers. In addition, particularly in the Conservative Party, the exalted position as party leader gives the Prime Minister a prestige far greater than that of any other individual in the Cabinet; and in the case of the Conservative Party it also gives him control over the party's organization and funds, weapons of decisive power against any challenger. Moreover, the prestige of the Prime Minister and the party are so closely intertwined that any attack upon the Prime Minister is bound simultaneously to discredit his party and to give ammunition to the Opposition, and few of his colleagues would risk such disaster in order to defeat one of his policies. For that matter, the constant publicity given the Prime Minister because of his position is likely to give him a prestige and a popular following greater than that of any of his colleagues.

### POPULAR LEADERSHIP

Even more fundamental, however, is the increasingly popular habit of looking to the executive for leadership, not only because Parliament is less and less able to work out a coherent policy or to frame technical legislation, but also because of the belief that the Prime Minister is more likely than Parliament to think in terms of the general interest. Parliament is largely made up of clashing interests: the trade unions have their representatives and so do the big industrialists and financiers. The Prime Minister, however, is not pledged to any special interest. His position is high enough so that he needs no man's favor and so that there is no bribe which can appeal to him. His position politically is so strong that he can afford to think of the public interest at the expense of private and selfish interests. He may not be able to ignore the most powerful of the special interests,



but he is in a far stronger position to resist a selfish minority than is the ordinary legislator. Indeed, to some extent his position encourages him to do so because, even when he thinks of the next election, he must think not in terms of any single interest or constituency but in terms of winning a majority of votes in the island as a whole. Any too evident devotion to any special interest (even to the trade unions in the case of Labor or to big business in the case of the Conservatives) may antagonize enough marginal votes to lose the election.

### ***What the Prime Minister Does***

The perfect Prime Minister would have to be an unusually versatile man, for he must combine the talents both of a leader of a great political party and of a chief of government officials. The success of his party at the polls may depend upon his ability to appeal to the popular imagination and to sense the desires and the needs of the mass of the people. He ought, like Stanley Baldwin, to have the sort of character and appearance which inspire trust and confidence. He ought, like Winston Churchill, to be able to speak directly to the hearts and minds of his countrymen so that through his words political issues may become clear and political needs comprehensible. It is up to him, more than any other elected figure, to give the human touch to government and to make the ordinary citizen feel that he is in some direct and personal contact with the issues which are being decided.

But the Prime Minister is obliged not only to play a great role before the public as a whole; he must also act as leader of his party in that narrower community which is Parliament. Here a quite different set of qualities is required. An expert platform manner is less important than judgment, understanding, and the ability to grasp the essential points of the issues under discussion and to display a command of the technicalities involved, to sense the feeling of the House and to adopt the proper strategy. Cogency of argument and skill in debate now become important, for the House of Commons is not a place where eloquence can be substituted for competence or where impassioned oratory can compensate for ignorance of the facts.

Then, too, the Prime Minister is head of the Cabinet. Here he must be a good judge of men, for, apart from those few who "choose themselves," he must select his colleagues. Here he must preside over the formulation of policy, and here the need is for the "good chairman," the man who can see the main issues and the questions of principle, who can arbitrate between different views, who has common sense and good judgment, who can guide the discussion toward a definite conclusion, and who can get the Cabinet team to work together harmoniously and efficiently.

Moreover, with the growth of the government's administrative functions, there is the need for the good administrator, who can comprehend the over-all pattern of the government's responsibilities, who can bring the incredible variety of governmental policies and activities into reasonable relationship with one another, and who can act as manager-in-chief of the government's business.

And finally, the Prime Minister must maintain particularly close relations with the King, for it is the Prime Minister alone and not the Cabinet who advises the King on such matters as appointments and dissolutions and who must keep the King informed on governmental decisions (see p. 125). The King, of course, can be expected to accept the advice of the Prime Minister on any significant issue, but assent is not always a mere matter of form. The tact and perception of the Prime Minister is an important element in their personal relationship; and the effectiveness of this relationship can have far-reaching consequences, as was shown at the time of the abdication crisis in 1936.

Obviously, no one man is likely to combine all the qualities needed for this job. A great popular leader may be a failure in the give and take of parliamentary debate, and he may be quite inadequate in the less public but vitally important work of chairman, co-ordinator, and administrator. More than one government has been wrecked by a Prime Minister who was as colorful and brilliant a leader as Parliament or the country could desire but who lacked the respect and even the trust of his colleagues and could not direct a Cabinet discussion toward definite decision or action on the issues before it. Yet the qualities required for the different functions



are not necessarily incompatible. Good judgment, both of men and of issues, is essential to the leader of the party in Parliament as well as to the chairman of the Cabinet. So are a grasp of the issues and principles which are most important and the ability to keep a group of men, larger in one case than in the other, working together in harmony and, if possible, with enthusiasm.

#### TRAINING

In this sense, the training which all British Prime Ministers must receive is more demanding than that of the ordinary American President. The man who can sustain the crossfire of Parliament over a period of years and who can lead his party successfully both in debate and in strategy must be a man of considerable ability. The competition for leadership is rigorous, and the aspirant is constantly sized up against both the leaders of his own party and those of the Opposition, and the sizing up takes place within a single chamber. In the United States there is no comparable device for the testing and winnowing out of the ablest leaders.

Yet there is also some fear that this kind of training may prevent the development of great leaders in the future. For if the House of Commons is the only path to political leadership, and if the House is itself dominated by the machines of the great parties, there will be less opportunity for the man who is brilliant but unorthodox to rise to the top. It is sometimes suggested that a Lloyd George or a Winston Churchill starting on a parliamentary career today would never be allowed to emerge from the wilderness of the back benches if, indeed, he could win election to Parliament in the first place. The man who is too independent or imaginative will hardly win the approval of the party whips, and leaders are likely to regard as a trouble-maker the young man who opposes their ideas or flirts with dissident groups. It took imminent military disaster to put Winston Churchill in the prime ministership, and short of such exceptional aid, the road of the independent is a hard one.

Yet if the restrictions on personal independence seem to be growing, there is considerable hope for the undisciplined in the fact that the

Cabinet formed by the well-disciplined Labor Party in 1945 contained three men—Sir Stafford Cripps, Aneurin Bevan, and George Strauss—who had been expelled from the party in 1935 for advocating a Popular Front with the Communists, and who, though they had returned to the fold, owed much of their prominence in the party to their earlier obstreperousness. One of them, Aneurin Bevan, again split from the Labor Government over policy in 1950 and resigned from the Cabinet but he remains a member of the party.

#### *The Prime Minister and the American President*

In comparing the power of the Prime Minister with that of the American President, the President appears to have two advantages. He has, first of all, a fixed term of office—four years—and no matter how unpopular he may be with Congress or even with the majority of the voters, he has the constitutional right to hold onto that office until the next quadrennial election. The Prime Minister, in contrast, has no certain tenure. The House of Commons, at least in theory, may force him to resign or to hold a new election whenever it wants.

The second apparent advantage is that the President is supreme within his Cabinet and may act against its unanimous opinion, while the Prime Minister must carry with him a Cabinet which contains men of greater political stature than the presidential Cabinet, and with whom he must share his power.

Both of these advantages, however, lose something in practice. The Prime Minister who enters office with a safe party majority is, to all intents and purposes, as sure of his five years in office as the President of his four. And if the Prime Minister is more seriously restricted by his Cabinet than the President by his, there is no doubt that the Prime Minister is frequently in a position to dominate it to a significant extent.

The decisive advantage which the Prime Minister has over the President is his control of the legislature. The tightness of party discipline and the power to dissolve a recalcitrant Parliament are two weapons for which the President has no equivalent. Congress is an

equal partner with the President, and it is inclined to feel jealous of his authority. It is under no obligation to accept his recommendations; any legislative program which he submits is likely at best to be modified and at worst to be mutilated, rejected, or ignored. The President's chief weapons are his power to appeal to public opinion, the judicious distribution of patronage, and the veto. As Franklin D. Roosevelt demonstrated, public appeals can have great effect if the President has the personality and knack to appeal to the public, and the issue is one which can be dramatized; but even Roosevelt could not swing public opinion, much less Congress, on an unpopular issue, and no President can weary the public with too many appeals or it will fail to respond. Patronage is now of limited extent, and after the first six months of a new administration the President is not likely to have a great deal at his disposal. The veto is a negative power; it is not of great help in pushing for the enactment of a positive program.

In contrast, the Prime Minister's legislative control is almost beyond challenge. He is, in fact, more likely to have difficulty in getting his ideas accepted by the Cabinet than by the House of Commons. Once the Cabinet is with him, and as long as the majority of Commons belong to his party, the House of Commons will not obstruct him; on the contrary, it will follow his instructions, not as an equal partner in the government, but as an assembly under his control.

#### LIMITATIONS ON THE PRIME MINISTER

Does this mean that the Prime Minister, then, is not a dictator in his control of his Cabinet only because he personally chooses to avoid dictatorship, and not because of any effective restraint upon his will? The answer is: not in any realistic sense. The Prime Minister holds his power for a definite period of time. Except for national emergencies there must be a free election at least once in five years, and at this time the people are perfectly capable of turning out both him and his party. This is an eventuality which no dictator contemplates or permits. Moreover, no dictator tolerates an active opposition, but the Prime Minister is always subject to the most searching cross-examination and the most vigorous denunciation by his opponents both in Parliament and in the press.

In addition, the spirit of the British Constitution acts as a telling restraint. Anyone who succeeds in becoming Prime Minister must have served a long apprenticeship in a tradition which takes for granted the rivalry of two powerful parties, the exuberance of criticism, the existence of a vigorous opposition enjoying special privileges, and the voluntary yielding of office when a vote either in Parliament or in a general election goes against the government of the day. Certainly the country as a whole would be horrified and would resist bitterly any government which violated this tradition. What is even more significant, the Prime Minister, educated as he is in this tradition, would himself be horrified by any such attempt, and it is unlikely that the idea would ever enter his head. He may at times use his power in an autocratic fashion, and he may show his irritation at criticism, but fundamentally there is always the recognition that he is the servant of the people, that they have the right both to criticize and to discharge him, and that if he wishes to do his duty and to keep his job, his will must be subject to theirs. This is, of course, an attitude which no dictator can comprehend.

### III. THE KING

#### *The King and the People*

In ordinary times the British King is more conspicuous than powerful. His coronation is the occasion for an unparalleled demonstration of popular and patriotic devotion; and the path of his progress when he drives to the Houses of Parliament to open a new session is lined with throngs of faithful and admiring subjects. Indeed, crowds of people will gather to watch any member of the royal family, whatever he does, who would scarcely turn their heads (save in time of grave national crisis or during a bitter political campaign) to catch a view of the Prime Minister. The activities of the royal family are always newsworthy: Prince Charles has a birthday or the dowager Queen opens a flower show, and the papers give as much room to pictures and descriptions of the event as they would to most political developments abroad.

A Prime Minister may make a significant political decision without one half the fanfare which accompanies a royal visit to a Welsh or Scottish village. Indeed, one of the classic methods of calling attention to some worthy cause, whether it be the restoration of the cathedral of Canterbury or, in time of war, the conservation of bath water, is to have the royal family engage in some symbolic gesture which will publicize the need.

Yet in spite of the ceremonial and the excitement, the Prime Minister and the Cabinet rule; the King, in any political conflict, must submit. The King is not totally devoid of power, but his powers tend to be informal, contingent, and often highly speculative. In fact, his position has undergone a paradoxical development. His popularity has grown enormously at the very time that his personal power has declined. Nor is this change a matter of coincidence. The popularity of the royal family today is largely due to the fact that it takes no part in politics, wields no open political power, takes sides publicly in no political controversy, and therefore makes no political enemies. Today it is unheard-of for any important organ of public opinion to criticize the King or his immediate family. He can, literally, do no wrong. And if this is because, politically, he can do nothing at all, his popularity does not suffer thereby.

#### THE LOSS OF ROYAL PRESTIGE

To anyone who notes the general tone of reverence adopted by the popular press in England and the almost religious feeling with which large masses of people regard the King, it seems incredible that he should ever have commanded anything less than this general regard. But as Kingsley Martin points out in his penetrating and entertaining book, *The Magic of Monarchy*, such was once the case. In the seventeenth century the people of England cut off the head of one King and deposed another. William of Orange and, later, George I and George II were, to a greater or lesser extent, suspected and even disliked as foreigners; and they were the object of active hatred on the part of those who were loyal to the old Stuart line. If George III was hailed as a real Englishman and a "patriot king," his insanity later in life scarcely added to

the credit of the monarchy; and the reigns of his sons, George IV and William IV, did little to raise the royal prestige. To those familiar with the press's present deference to royalty, it is something of a jolt to read the comments of the *Times* on the death of George IV: "There never was an individual less regretted by his fellow-creatures than this deceased King. What eye has wept for him? What heart has heaved one sob of unmercenary sorrow?" The *Spectator* marked the occasion by printing a list of the King's mistresses; and it later wrote of William IV:

His late Majesty, though at times a jovial and, for a king, an honest man, was a weak, ignorant, commonplace sort of person. . . . Notwithstanding his feebleness of purpose and littleness of mind, his ignorance and his prejudices, William IV was to the last a popular sovereign, but his very popularity was acquired at the price of something like public contempt.<sup>6</sup>

Perhaps the most striking aspect of such statements is not the harshness but the matter-of-factness of the criticism. The King, clearly, was a very ordinary mortal, and there was little of the almost mystic reverence which since has grown up. For today, as Kingsley Martin has noted, it is possible to discuss the divinity of Christ in the British press, but there can be no serious discussion of the monarchy.

#### RECAPTURE OF ROYAL PRESTIGE

The change in the monarch's position occurred during the reign of Queen Victoria who, as a young ruler, was herself subjected to serious criticism. As late as the 1870's there was a flourishing and noisy republican movement. Later, however, the new imperialistic spirit helped to turn the Queen into a symbol of Empire and as such to kindle public enthusiasm. Moreover, her very longevity commanded respect. A new generation grew up which remembered nothing of earlier royal scandals and which felt respect and even affection for the venerable matriarch. The ultra-respectability of her private life appealed to the politically powerful middle class. And if Victoria was at times very active politically behind the scenes, her avoidance of overt political action rendered her, so far as the vast public was

<sup>6</sup> Quoted in Kingsley Martin, *The Magic of Monarchy*, pp. 27-30.

aware, immune from partisan attack or criticism.

Victoria's son and successor, Edward VII, did little to raise the royal prestige in the public eye, but her grandson, George V, established the monarchy even more firmly. The decency of his private life and the conscientiousness with which he performed the taxing duties of his office won him a respect and a freedom from criticism which set the pattern for the present time. So immune to criticism did the royal family become that, at a time when it was widely known in the United States that Edward VIII was contemplating marriage with the twice-divorced Mrs. Simpson, no British newspaper—not even the *Daily Worker*—dared mention the affair, partly because of the law of libel, but chiefly because of fear of the reaction of readers who had been brought up to think the King above reproach. Moreover, the editors themselves had a well-developed habit pattern which made them renounce the scoop of the century rather than depart from their customary standards. Largely as a result of this reticence, George VI was able to succeed with noteworthy ease both to his brother's title and his father's prestige. When his daughter, Elizabeth II, ascended the throne in 1952, the monarchy had never been more popular.

### *The Bases of the King's Prestige*

Several considerations help to account for the popularity of the monarchy. For one thing, the kingship answers a need for color and drama, for great spectacles and pageants, which too often is left unsatisfied in modern society. Especially in an age when life for large numbers of people is drab, monotonous, and uneventful, the need for diversion and for some emotional outlet is a serious one and one which, incidentally, explains some of the appeal of the uniforms and parades of Fascist movements.

The royal family, moreover, introduces an element of human interest and warmth into the lives of many who are poor, lonely, and frustrated. The individual who, in a highly urbanized society, misses the gossip and friendliness of village life and feels uprooted and alone can find some substitute in news of the royal family. Every detail of their lives is carefully related

in the public press, and one can take a personal interest in their clothes, their diversions, their trips, and their romances in a way which parallels the insatiable curiosity of many Americans about the lives of their favorite motion picture stars. Undoubtedly many people, consciously or unconsciously, identify themselves with individual members of the royal family and find some release from the limitations of their own existence.

Another psychological element has greater political importance. Rarely in human history has the individual felt less secure than today. Dread of economic disaster and fear of war make him feel himself to be the pawn of forces completely beyond his control. In many ways he resembles a child, frightened of the world and longing for security. And like a child he desires the protection of some authoritative figure—a father, a leader, or a king. To this need, the royal family lends itself most effectively. Queen Victoria, with her great brood of children, was the mother incarnate. Edward VII resembled in some respects the English country gentleman to whom tenants could look for direction and support. George V and George VI, with their irreproachable family life, easily fitted the father picture. And it is significant that when Edward VIII acted in such a way as to blast the picture of the father of his people, he lost his throne. Those who remember the grief of the American people at the death of President Roosevelt can appreciate something of the emotional force which attaches itself to any leader, particularly in time of peril; and from this attachment the King profits.

### LIMITATIONS

But if such considerations contribute to the King's power, it is clear that power depends upon his willingness to keep respectable and to keep out of politics. If the King ever became openly a partisan of one party and an enemy of the other, the party which he opposed would be driven inevitably to criticize and attack him. And since, in a democracy, the Opposition sooner or later comes into power, the time would come when the King would be obliged to work with ministers who had attacked him or to get out. Indeed, the leaders of a party which the King publicly opposed probably would re-

fuse to hold office while he retained the kingship, and they might abolish the monarchy altogether.

In short, the price of the King's popularity and position in Great Britain is his abstention from politics. Edward VIII, during the depression, visited one of the most poverty-stricken areas of Great Britain and, on viewing conditions which were shocking, made what would seem the obvious comment that something must be done. In Great Britain, however, the comment aroused considerable discussion. The question of help for the depressed areas and of relief in general was a political question, and it was suggested that the King had uttered a political opinion. People wondered whether the King intended to do something actively to carry out his remark, and if so what action could be taken which would not violate the constitutional tradition. It was even suggested that certain Conservatives were not sorry to see the King abdicate at the time of the Simpson affair because of his expressed sympathy with the working classes. Altogether, the flurry of speculation which could arise from such a remark indicates one reason why the present rulers of Great Britain generally limit themselves, when they talk with their subjects, to the asking of questions of the most innocuous character.

As royalty must be free of political bias, so must it be free from scandal, for it is hard to make the father picture fit the colorful rake, or to combine reverence for the royal family with disapproval of its private life. As long as the King and Queen lead a conventional life, their job is a good one. But any unorthodoxy, although it may exhilarate a small elite, will blast the illusions of the masses of the people. The King who is to hold his position must reconcile himself to a dull and conscientious existence. He must be willing to be bored interminably by long-winded if well-intentioned speeches of welcome and gratitude. He must appear at innumerable and exhausting public ceremonies, maintaining an air of interest and even of pleasure. Regardless of weather, the show must go on. The crowds must not be kept waiting, and they must be able to take their fill of the sight of a gracious, kind, conscientious, understanding sovereign. The King or Queen

who is not ready to pay this price had better imitate Edward.

### *The King's Powers*

So much for the psychological aspects of the King's position. What are his real powers?<sup>7</sup>

There is no simple answer to this question. In general, the King's job is simply to do what his responsible ministers tell him to do. When an election is held and the former Government has resigned, the King customarily sends for the leader of the victorious party and asks him to form a government. As long as the House of Commons is willing to follow this leadership (and generally this means until the next election), the Cabinet stays in office. The King makes the speeches the Cabinet desires and signs the legislation it has Parliament pass. If that Government is defeated in an election and resigns as a result, or after meeting an adverse vote in the House of Commons, the King calls on the leader of the new majority party and takes orders from his new master. The result is the kind of paradox one finds in a Gilbert and Sullivan operetta. The Prime Minister kisses the King's hands when he takes office, and he addresses him with the utmost deference. But the facts are all the other way around. It is the Prime Minister who tells the King what to do, and if there is any conflict of wills, it is the Prime Minister who is in the dominant position.

What influence the King has, in short, depends upon his personality rather than upon his formal power. He has the right to be informed and to be consulted. The Prime Minister must always tell him of Cabinet decisions, and he must be ready to explain the reasons for any policy. The King can, in the words of Bagehot, encourage and warn; and if he is an intelligent monarch, these powers may be important. For the King is in an unusually advantageous position. In the course of a normal reign he is bound to see many governments come and go, and to be acquainted with the leading statesmen of his age. He can, if he wishes, acquire considerable political knowledge and experience. And since the Prime Minister must discuss his policies with the King, tell him of new

<sup>7</sup> For the distinction between the Crown and the King, see above, pp. 30-31.

developments, and listen to what he has to say, the King is in an excellent position to make his views known to the man who has the power to do something about them.

Few people really know, until long after Kings or Queens have died, how much of a part they have played in politics. Queen Victoria, for example, was a woman of decided opinions. In the great rivalry between Gladstone and Disraeli, she was heart and soul with Disraeli. Repeatedly she took action behind the scenes to help her political friends and to impede her enemies. But the public at large was quite unaware of her activity. Again, in the reign of Edward VII, although there is still some controversy over the extent of his real influence, the King's opposition to reform of the House of Lords, his hostility toward Germany, and his support of the French alliance are credited with having had considerable importance. George V is reported to have acted as something of a brake on the Liberal government which was in office when he succeeded to the throne; and he undoubtedly played a decisive part in the parliamentary crisis of 1931 by urging the leaders of the three large parties to form a coalition Cabinet.

#### EXCEPTIONAL CIRCUMSTANCES

In addition to whatever informal influence the King may have, there are certain exceptional times when he may exercise real power. If one party has a clear majority in the House of Commons, and if one person is clearly the leader of that party, the King must ask him to become Prime Minister. But there have been times in the past when no party had a clear majority in Parliament or when the majority party had not yet designated its leader. At such times the King may be able to exercise a certain personal choice. Even in such cases, however, the King is careful to follow the course which is least likely to arouse criticism. If there is no obvious leader of the majority party, he is careful to find out who is most acceptable to the party's leaders in general; if there is no clear majority in Parliament, he turns to the party which is best able to form a government in accordance with the verdict of the last election or which is most likely to receive the support of the House of Commons. If a Prime Minister should be defeated in a vote

on a significant issue in the House of Commons and should prefer resignation to dissolution, it is customary for the King to send for the leader of the Opposition, even though the Opposition does not have a majority. If, however, as in 1931, the government resigns without having been defeated, the King is somewhat freer. He may consult anyone he wants—including the leaders of all the political parties—and attempt to work out a solution which will be satisfactory. Thus George V, according to report, urged Prime Minister MacDonald, following his resignation in 1931, to form a new Cabinet made up of leaders of all three parties, and persuaded the leaders of the other parties to concur. But there is still some complaint that the King, in so doing, exceeded his constitutional powers.

A second case in which the King has power is less clear. Repeatedly in the past there have been serious disagreements between the House of Commons and the House of Lords. Under such circumstances the Prime Minister may ask the King to appoint enough new peers to override the hostile majority in the House of Lords. Some writers, notably those attached to the Labor Party, insist that this is advice which, like other advice from the Prime Minister, the King is bound to accept. But orthodox opinion holds that the King cannot be compelled to make such appointments until he is sure that the people of the country are truly in accord with the controversial legislation. The King, accordingly, may first insist that a new election be held to test the issue in dispute.

Some commentators, for the most part Conservatives, would push the power of the King even further. They insist that the King, as guardian of the Constitution, has the right to refuse his consent to a proposal which he regards as unconstitutional or as an abuse of the Prime Minister's power (though this power has not been exercised since 1707), that he has the right to dismiss a government under such circumstances (though this has not occurred since 1783), that he can force a dissolution of Parliament (although he must first find ministers who will take the responsibility for his act), and that he can refuse to dissolve Parliament when the Prime Minister so requests if he thinks it unwise or if he believes it possible to form an alter-

native government. All of these claims are extremely controversial, and, as so often is the case with the British Constitution, one may simply have to wait and see. One comment, at least, seems safe. If ever such powers are exercised, the occasion is likely to be a serious emergency; for it is only at such a time that a King would risk making the royal power itself an issue. So long as he follows the advice of his Prime Minister, no one will criticize him: if the consequences are unfortunate, the fault is the Prime Minister's. But once the King acts for himself, he must also expect to be criticized directly. And the road of least criticism is the road for the King.

### *Other Functions of the King*

The King has acquired a new and extremely important role in recent decades. He is the symbol which, in a very real sense, holds together the British Commonwealth of Nations.

Colonies, of course, can be governed as effectively by a republic as by a monarchy. But it was essential for the actual evolution of important British colonies from a position of dependence on Great Britain to one of independence within the Commonwealth that there was a monarchy to act as a formal and sentimental link between them for thus, although they had no common Parliament or Cabinet, they had a common King.

The King of Great Britain is at once King of Canada, King of Australia, King of New Zealand, King of South Africa, King of Pakistan, and King of Ceylon.<sup>8</sup> No change may be made in the order of succession to the throne by any member of the Commonwealth without the consent of the others. And, particularly among those of Anglo-Saxon descent in the overseas parts of the Commonwealth, there is a somewhat romantic, somewhat emotional, but patriotic and powerful loyalty to the King which helps to hold these areas close to the people and even to the policy of Great Britain. This attitude was evident when Queen Elizabeth II, then the heir presumptive, toured Canada in 1951. Some of the bonds of the Commonwealth

are bonds of tradition, and many are bonds of self-interest; but the person of the King fills an essential place by providing an easily comprehensible symbol of unity. In this sense, he is irreplaceable. In his broadcast at the time of George VI's death in early 1952, Winston Churchill spoke perceptively on this aspect of the Crown:

There is no doubt that of all the institutions which have grown up among us over the centuries or sprung into being in our lifetime, the constitutional monarchy is the most deeply founded and dearly cherished by the whole association of our peoples.

In the present generation it has acquired a meaning incomparably more powerful than anyone had dreamed possible in former times. The Crown has become the mysterious link, indeed I may say the magic link, which united our loosely bound but strongly interwoven Commonwealth of nations, states, and races.

Peoples who would never tolerate the assertions of a written constitution which implied any diminution of their independence are the foremost to be proud of their loyalty to the Crown.

### APPEAL TO THE IRRATIONAL

British writers often praise another aspect of the King's position. Ever since the rise of Fascist governments and the general fear that democracy might not be able to compete with various leader-worshipping cults, many people have noted the highly effective, if unintentional, way in which the institution of kingship has diverted potentially dangerous inclinations into relatively harmless channels. In the King the people have a leader who is far more colorful and the center of far more ceremonial than Adolf Hitler at his best. In his person and his family, the King is the incarnation of national history. He has the traditional reverence of many generations on which to draw in support of his position. He excites a respect which cannot be commanded by ordinary human beings. Few people are likely to turn to a Führer while the King affords so exceptional an outlet for the irrational feelings which occasionally menace democracy. Yet—and this is supposedly the beauty of the system—the King is politically almost powerless. The people may adore him to their heart's content in almost perfect safety. Their trust cannot

<sup>8</sup> India, though a member of the Commonwealth, is a republic. See p. 217.



be abused because the King lacks the power to abuse it.

Some observers like to point out that in the United States a citizen is torn by conflicting desires. He wants to love and revere the President as chief of state and leader of the country; but often he wants to hate him as the leader of the party to which he is opposed politically or as the author of policies which seem to him disastrous. He wants a father-substitute whom he can trust and love, and he needs simultaneously a scapegoat for his fears and frustrations. In Great Britain the strain is considerably less. The ordinary citizen can love the King and denounce the Prime Minister without any feeling of inconsistency.

Perhaps Americans, in their political system, have made too little provision to meet the irrational elements in human nature, although the importance of the general reverence for the Constitution as a unifying force should not be underestimated. There could, in fact, be a rather interesting argument as to whether King-worship or Constitution-worship is better. For worship of the Constitution may end in blind opposition to necessary change, while the King who is the object of such irrational devotion may, human nature being what it is, choose at some time to abuse the potential power with which this reverence invests him. Certainly it was a shock to many Britons to realize, during the crisis over the abdication of Edward VIII, that a human being could be clothed in such an aura of sanctity that it was impossible publicly to discuss his faults and that there was even some danger that a party of "King's friends" might appeal to the country to uphold the King at the sacrifice of the traditional institutions of constitutional democracy.

#### DEMOCRACY AND ROYALTY

There is also some criticism of the kingship, chiefly by intellectuals in the Labor Party, who point out that the King's circle of personal friends and companions is, of necessity, limited to the upper classes. Such men and women are unlikely to have had any personal experience of poverty and deprivation; and most of them are likely to be, not only Conservatives, but right-wing Conservatives. If ever the King should be so ill-advised as to interfere actively in politics, therefore, it would scarcely be to the advantage of Labor. The education of royalty places so much emphasis on the constitutional tradition and the obligation of impartiality that there is little likelihood that this danger will materialize, but the possibility explains Labor's distaste for those theories which would interpret broadly the King's political powers.

The American may be more seriously impressed by another criticism put forward by certain British critics, to the effect that the monarchy is a bulwark of the class system and that this system is incompatible with democracy. So long as a court exists, the charge runs, and so long as men of title play a dignified and colorful part in the national life, so long as there is rivalry for "presentation" at the Court of St. James or for invitations to a royal garden party, there exists an official institution for the effective, if unintentional, encouragement of social snobbery. While King and court exist as living reminders of hierarchy, title, and class, the path toward social equality cannot be completely smooth. And although the point is debatable, as to whether political democracy is dependent upon a large measure of social democracy, those who believe it is so dependent must regard the monarchy as one of the liabilities of British democracy.

## CHAPTER 6

# The National Administration of Great Britain

### I. THE RANGE OF PUBLIC RESPONSIBILITIES

In the past century no development, the world over, has been more spectacular than the increase in the scope of government activity. In the early nineteenth century the major responsibilities of government were to provide peace and order and to make it easy for private enterprise to do the rest. But the growth of heavy industry and crowded cities following the industrial revolution created problems of health and exploitation which individual efforts could not solve. One after another, each group in the community turned to the state to provide protection or aid, and each new demand added to the work of government.

Thus in the early nineteenth century the danger of disease and epidemics in Great Britain's overcrowded communities brought a demand for compulsory rules of sanitation and for the establishment of public health services. Public outcry against the widespread use of child labor in cotton mills and coal mines resulted in restrictive legislation. Labor sought protection against dangerous conditions of work, and later won the right to organize and bargain collectively. British farmers, long neglected in the national concentration upon industry, ultimately secured government guarantees of the prices of their products as well as the benefits of government-sponsored research. Even industry, as it came to be challenged by the competition of other countries, asked protection through tariffs and sought positive public aid in re-equipping itself for more productive effort. In responding to these and other demands, the state has become a "service" or "welfare" state, committed to creating favorable conditions of

life for all its people. And in so doing, the state through its agents has increasingly intervened in the affairs of the community and the lives of individuals.

### *Modern Social Responsibilities*

Nowhere has the increase in the responsibilities of government been more obvious than in the field of welfare. In the past, distress whether caused by unemployment, sickness, or old age was looked upon as a personal, not a social, problem. Private aid, often a matter of religious charity, met most of the needs of the poor. When it did not, the task was left to local communities. However, workhouses and poor farms were purposely kept as uncomfortable as possible to discourage people from resorting to them. Poverty was looked on as a disgrace resulting from lack of initiative and unwillingness to work; hence public aid was both meager and grudgingly given.

More recently, men have placed the blame for poverty and mass-unemployment upon the economic system rather than upon individuals themselves. They have seen that in a society dependent on mass production the impact of fluctuating demand and technological change is often felt far outside any particular industry involved. Moreover, the fact that the results of unemployment are far more disastrous in modern urban society than in older agricultural ones, where the land could help to provide a living, has brought a heightened sense of public responsibility.

### PROTECTION OF THE WEAK

This new conception of state responsibility has been reflected in the belief that the weaker

members of society must be protected from the worst effects of economic pressures, and that village solidarity must be replaced by social solidarity, that is, by the support of the *whole* community. Between 1906 and 1911, almost thirty years before similar American action (but not as early as in Germany—pp. 608, 731), the British government made spectacular advances in public welfare by instituting a “New Deal” which introduced national health and unemployment insurance for some groups, noncontributory old-age pensions, a national system of employment exchanges, and free meals for needy school children.

After World War I maternity and child welfare services were extended, more adequate help was given to the blind, and unemployment insurance was broadened to cover about two-thirds of the wage-earning population. Since during the depression vast numbers of workers exhausted their unemployment benefits and others were ineligible for them, it became necessary in 1934 to establish an unemployment assistance service. In the inter-war period, housing programs and slum clearance (made necessary by the enormous number of ancient slums and outworn buildings dating back to the beginning of the nineteenth century) vied with unemployment for first place in the attention of social welfare departments.

But despite the very real achievements of the welfare program (which included the rehousing of one-third of the British population between 1918 and 1939), the effects of the depression and of long periods of unemployment, particularly in depressed industries like coal mining, remained vivid in people’s minds. During the Battle of Britain in World War II, the sacrifices made by all classes threw ordinary social and economic inequalities into sharp relief. Even a Conservative Party report declared in 1941 that “the nation is less satisfied with its immediate past than it has ever been in its entire history.”

#### NATIONAL MINIMUM STANDARDS

Under the spur of dissatisfaction with the past and with years of recurring depression, a new concept of public welfare began to appear. The older view—that public welfare should be pri-

marily protective in character and limited to groups least able to take care of themselves—gave way to a newer view: welfare measures should not only be a support in time of need but should also provide positive means of improving the condition of the whole society. Where supporters of the older view feared a weakening of personal initiative if the state provided a basic minimum standard of living for everyone, and were even more concerned lest an extension of state responsibilities in welfare fields would place a crippling burden upon the economy, the advocates of the new conception of welfare maintained that national minimum standards would not only leave room for initiative but would encourage it by restoring hope and health to the former underprivileged. The latter also believed that the increase of income in the lower brackets through nationwide social security would help to maintain the demand for goods and thereby prevent unemployment.

#### THE BEVERIDGE REPORT

The extent of popular support for governmental action to produce economic security, health, knowledge, and general well-being, became obvious with the instant acclaim of the Beveridge Report in December 1942. It was the essence of the argument of Sir William Beveridge, the noted British economist, that five “Giants,” *want, ignorance, idleness, squalor, and disease*, were preventing the attainment of the goal of “freedom with security.” Although *want* was the “Giant” with which Beveridge’s report on *Social Insurance and Allied Services* was particularly concerned, he warned that all five had to be attacked simultaneously in order to defeat any one. Thus the battle required not only nationwide social security but also a public attack on unemployment, undernourishment of children, and menaces to health, and involved governmental responsibilities for better housing, more town planning, and broader opportunities for education.

In the four years following the publication of the Beveridge Report, most of its specific proposals as well as its basic assumptions were embodied in legislation. The Education Act of 1944 provided free public secondary education. Parliament voted family allowances. A national

health service and a comprehensive system of national insurance came into operation on July 5, 1948. Through government-supported housing earlier moves to rehouse the British people continue and attempts are made to ease the serious shortages caused by wartime devastation. Most radical is the legislation for town and country planning under which all forms of land development are controlled.

Social welfare programs thus occupy a major share of the British government's attention today. Following Beveridge's prescription, the British are grappling with all their problems at once. The "Giants" of ignorance, idleness, want, squalor, and disease are being beset. In the process, the range of governmental responsibilities has been widened drastically to include almost every sphere of social life. All along the line, the government has become a partner with private enterprise in producing and maintaining conditions of general well-being.

### *The State and Economic Life*

Increased programs of social welfare place a heavy burden of expenditure upon the state; they are, as the able Labor leader, Herbert Morrison, once said, "cheques which the nation has drawn on the future." Only a healthy and prosperous economy can carry such a burden. Thus the "welfare" state may have to concern itself also with keeping farms, business, and industry in sound condition, so that the whole economy will function at a high level of production and consumption.

Before World War I, British industry and agriculture stood almost entirely outside government control. Free trade after 1846 ensured the British consumer low prices for both foodstuffs and manufactured goods. British industry had a strong international position resulting from Great Britain's early development as "the workshop of the world," and the wealth from industrial production kept a steady flow of food and raw materials moving to the British Isles.

It was the threat of national starvation through submarine blockade in two World Wars which forced a revision of the British attitude towards home agriculture. Similarly in the inter-war period, industrial competition

from countries like the United States and Germany, countries with a much richer natural endowment of raw materials, forced a reconsideration of the position of British industry.

### AIDING PRIVATE ENTERPRISE

In order to increase home sources of food, the British government embarked in the 1930's on a policy of guaranteeing a proportion of the British market to the producers of certain agricultural products. After World War II, in the hope of ensuring home supply of at least half of British food needs, the government added guaranteed prices for certain products to the guarantee of secure markets. Furthermore, a vigorous program to increase the productivity of British farms was carried on by district and county committees of local farmers under the direction of the Ministry of Agriculture.

Industry needed no less drastic measures. The government extended tariffs in the 1930's and, at the same time, encouraged industries to form cartels, since it thought that monopolies would be in a stronger position than individual concerns in trading on the world market. But the results were disappointing. Moreover, British output per worker was outstripped in many fields by American output, due largely to inadequate mechanization in many British industries. The war demonstrated the great productive capacity of British labor but intensified the strain on out-dated machinery.

At the end of World War II, Conservatives and Laborites disagreed as to whether, under the conditions of extreme difficulty then prevailing, private companies could tackle successfully the mammoth job of industrial re-equipment and reorganization needed to win back a position in world markets which would support the British population. Conservatives believed private business could do the job, though only if given substantial government aid. Labor believed that government must not only aid but also direct industry through economic controls and through nationalizing key portions of the economy. When Labor won the election in July 1945, it launched a program under which the government assumed substantial responsibility for operating important portions of the economy.

## NATIONALIZATION

The most striking extension of modern governmental functions is through nationalization, which takes government into the field of business, substituting national for private ownership. In place of the more traditional responsibilities of regulating and promoting private economic enterprises, government through nationalization itself undertakes the processes of production and distribution.

Public ownership is not new either in Great Britain or in the United States, for in both countries many municipalities have long owned electrical supply or gas works, run streetcar lines, or operated docks (e.g., Port of London Authority). In Great Britain three large-scale public enterprises were established in the inter-war period (the first two by a Conservative government): the British Broadcasting Corporation, which provides all British radio broadcasting; the Central Electricity Board (now absorbed in the general nationalization of electricity), which built and operated 4,000 miles of high voltage transmission wires, known as the Grid, which cover Great Britain with a network of power; and the London Passenger Transport Board (now under the Transport Commission), which operated various forms of transportation in the vast London area. What was new about the Labor government's nationalization program was its scope and the potential power which it placed in the hands of the government, for it brought under public ownership, or direct public control, about 20 per cent of the economy—and that 20 per cent was in a strategic position to exercise control over all the rest of the economy.

During its first session the Labor government nationalized the Bank of England, the coal mines, and telecommunications, and consolidated national control over civil aviation. All electric power supply and transmission were nationalized in 1947. The railways, road transport, London transport, docks and inland waterways came under national control at the beginning of 1948. The nationalization of gas supply and some parts of the iron and steel industry rounded out the program.

It is possible to see a fairly well defined pattern in this nationalization program. The first feature resulted in *increased public control over*

*finance*. The nationalization of the Bank of England, coupled with the Investment (Control and Guarantees) Act, passed at the same time, means that the government supervises and, if necessary, can control general financial and investment policies. This enables the government to use finance as an instrument of national policy even if its plans should not coincide with traditionally orthodox financial methods. Thus to the power of taxation possessed by all governments is joined power to guide investments into those industries or services which the government is particularly eager to develop, and to finance large-scale developments dictated by long-range plans.

National control of important sources of *Empire and Commonwealth communications*—in particular, civil aviation and telecommunications—provided the second aspect of the program. The far-flung character of the British Empire, long held together by sea power and now linked by air routes, makes civil aviation an important instrument of national policy. And, as a Commonwealth Conference contended in 1944, telecommunications are another link in imperial communications too vital to be trusted to private ownership.

The third major step in the nationalization program was the extension of public control over those *depressed domestic industries* which were of vast importance and yet in such bad shape that private efforts could not do the job. The coal mines were the obvious illustration. Since coal, which is Great Britain's greatest natural resource, is used by practically all British industries, and, in the past, has provided a major share of British exports, its key position in the British "battle of production and exports" is unquestioned. Almost equally universal was the belief that only the resources of the state could modernize the equipment and organization of the mines.

There was less unanimity of view regarding the fourth step in the program, namely the nationalization of four *important public utilities*: the railways, road and inland water transport, electricity supply, and gas supply. The railways were efficiently run by four great private companies under whose control they had been merged following World War I. That they needed large-scale re-equipment after the strains

and damage of World War II could not be denied, but many people questioned whether public ownership was a better solution than publicly aided financing. Similar questions were raised by some people about road and inland water transport; and the Conservatives, on their return to office in 1951, declared that they would modify the road haulage arrangement to ensure some element of competition in transportation. The nationalization of both electricity and gas supply brought together under common managements widely scattered networks of municipally and privately owned concerns. Perhaps the most serious doubt raised by this move concerned the advisability of bringing all sources of power under public control.

The most controversial aspect of the nationalization program was its extension to parts of the *iron and steel industry*, a vigorous, articulate, closely knit industry with plans of its own for reorganization and development. The main argument in favor of nationalization was the industry's monopolistic position, which was not only permitted but even encouraged by Conservative administrations. The Labor Party has long accused such monopolies of keeping prices high, of resisting technological innovations, and of exercising too much power within the economy as a whole. If monopoly conditions are necessary for efficient production, they argue, then the monopoly should be in the hands of the public so that it will serve public rather than private interests. This attitude is held particularly by Labor's left-wing members, whose pressure led to the implementation of nationalization following Labor's return to power, though with a slender majority, in 1950. The Conservatives, in turn, announced their intention after the 1951 election of rescinding nationalization of this industry though a wide measure of public control is likely to remain.

Despite parliamentary battles over the nationalization program, large-scale public ownership has become and will remain a prominent part of the British economic structure. Even the Conservatives, though they prefer private enterprise, which they believe results in initiative and experimentation, have stated officially in *The Industrial Charter* (issued in May 1947 and subsequently adopted by the Conservative Party Conference) their acceptance of the principle of

nationalization for all industries and services thus far nationalized by Labor—except iron and steel and road haulage. The Conservatives recognize that it is far easier to nationalize than to de-nationalize a service or industry, and *The Industrial Charter* pointed out that industrial recovery "might be indefinitely delayed if every change in the majority of the House of Commons was followed by a complete reorganization in certain of the basic industries." Thus government in Great Britain has acquired a large and relatively new series of responsibilities in the economic sphere.

### *Economic Planning*

Ultimately, government's most far-reaching responsibilities may result from economic planning in response to objectives like full employment and improved standards of living. It is indicative of the enormous change in British thinking from early nineteenth-century *laissez faire* (leave private enterprise alone) that the Churchill government began its White Paper on Employment Policy of May 1944 with the words: "The Government accepts as one of their primary aims and responsibilities the maintenance of a high and stable level of employment after the war." Such an objective means that the *conditions* for full employment must be furthered or created by the state.

What these conditions are and how they may be produced are not yet certain, but the White Paper on Employment Policy and Sir William Beveridge's book entitled *Full Employment in a Free Society* laid down certain propositions which serve as general guide posts. In the first place, heaviest weight is given to maintaining adequate "*total outlays*," that is, total national expenditures, public and private, on goods and services. The government must be ready to "take up the slack" if private expenditures begin to decline sharply. But since this in itself would not be enough, there must, secondly, be *rational location of industry* with particular reference to sources of raw materials, distribution facilities, and, in particular, sources of labor. And this, as the White Paper points out, also involves establishing balanced industrial development in areas subject to unemployment. In the third place,

and concurrently, there must be *mobility of labor*. By removing such normal impediments to mobility as inadequate housing and special costs of transportation, workers should be encouraged to move to places where employment opportunities exist. In the fourth place, the White Paper stresses that there must be *stability of prices and labor costs*. This means that wage increases should depend on increased labor productivity, not simply on bargaining power.

The mere enumeration of these propositions indicates the breadth of their implications. They will certainly involve heavy public expenditure at a moment when depression appears to threaten, relocation of industry through zoning certain overcrowded areas and subsidizing transfer to or building in previously undeveloped areas, housing programs, and price and wage stabilization. Yet though there is little agreement about details of the program, there is a wide measure of support in Great Britain for using the resources and, if necessary, the directive capacity of the government to develop and stabilize the economy in such a way as to prevent a recurrence of the dark days of depression and prolonged unemployment. Whether such achievements are possible in a "mixed economy" where approximately 80 per cent of economic activity and much of the financial resources of the country are in private hands, or within a world economy still subject to great fluctuations, is far from clear. But the attempt is being made.

#### IS ECONOMIC PLANNING COMPATIBLE WITH DEMOCRACY?

The vast increase of government activity in Great Britain inevitably raises one question: Can so large a degree of governmental planning and direction be reconciled with the rights and freedoms of individuals in a democratic society? Supporters of government planning and control maintain that such activities are not only compatible with democratic liberties but essential to them. They insist that individuals can truly enjoy freedom only if they are protected from the haunting worries of depression, prolonged unemployment, and subsistence standards of living. They believe that only the government can act on behalf of the whole people, and they point out that all industrialized states have had to

assume steadily increasing responsibilities for the social and economic well-being of their people through social security systems, aid to agriculture, and protection of business and industry in one way or another. They feel that it is only "applied common sense" to co-ordinate government plans in various fields into general economic planning.<sup>1</sup> While they do not claim that their planning will achieve exact results, they believe it can be a useful guide since, as Herbert Morrison put it, it makes possible the "organized extension of our national vision several years further ahead than we have been accustomed to look."

In contrast, opponents of economic planning fear that it will lead to ever increasing governmental power and control until finally the sphere of private enterprise and personal freedom disappears. The very effort to make national plans a success, they feel, may lead to control of more and more parts of the economy, to forced investments, and, even more dangerous, to regimentation of labor. Many opponents of economic planning do not wish to turn back the clock to a laissez-faire system, but they do not want extension of governmental control except to meet particular emergencies. Some believe that the production and distribution of goods is so vast and complicated a process that general direction by the government imposes a strait jacket which defeats its own purpose of increasing the supply of goods and seeing that they are more equitably distributed.

Thus the question at issue between the advocates and opponents of economic planning is rather a matter of degree than of principle. Wide governmental activities are here to stay in all industrial states. The basic questions are: How wide *must* they be to ensure national well-being? How wide *can* they be without infringing dangerously on the area of individual initiative and personal liberties?

Such questions can be answered only in terms of more specific questions. What methods of direction and control are used by government officials? How are government officials themselves kept under control, and what safeguards are there for individuals and private groups? How effectively can the public participate in set-

<sup>1</sup> For the machinery of planning see pp. 148-50.



ting the goals and the methods of government action?

The answers to these questions must be sought in a study of the forms of administrative action, of the way in which public administration is organized and operates, and of the way in which public servants are chosen and carry out their duties.

## II. PUBLIC ADMINISTRATION AND POPULAR CONTROL

The government of every democratic country faces the problem of combining technical expertness with responsibility to the voters and their representatives. The outstanding characteristic of the expert is that he knows more about his special field than does the layman; but the outstanding characteristic of democracy is that the government (including the public service) must, in general, do what the people want it to do. To subject the judgment of the expert to the direction and control of ordinary citizens may seem to the expert to destroy the value of his expertness. But to free the expert from this control is to destroy democracy.

Fortunately, the problem is not quite so difficult as these statements would make it appear. The expert is generally an expert in the methods of achieving a given purpose; but the purposes are those of the citizen. The expert knows how to build a bridge; it is the citizen who wants to get to the other side of the river.

Yet it is still true that the expansion of governmental functions has inevitably vested an increasing degree of discretion in the hands of administrators. The traditional division of power between the legislature and the administration was one by which the legislature passed the laws which determined policy and the administration carried them out. Philosophers like Locke insisted that this separation of functions was an essential safeguard from governmental autocracy. But modern conditions have made it impossible to retain such a clear-cut distinction between legislative and administrative work. Legislation is concerned with the general rules which must be observed in the community. But the highly organized societies of today need detailed regulation of an extremely technical character. Thus a good deal of discretionary power

to make supplementary regulations is often incorporated in laws with the result that it is administrators—not legislators—who determine the particular form of the rule which has effect in a given case.

### *The Problem of Delegated Legislation*

The outstanding manifestation of the growing tendency to vest discretionary power in the administration is the practice of *delegated legislation*. As we have seen above, the British Parliament frequently passes laws in skeleton form: only the major principles are indicated; the details are left to government departments to work out. Delegated legislation makes for great flexibility in administration. But many feel that it forms a serious threat to the legislative authority of Parliament and to popular control of governmental action, particularly when there is sub-delegation (e.g., a statute permits an Order in Council, which in turn authorizes a Ministerial Order, which may authorize an official regulation, and so forth), since it enables the administration to act almost independently of popularly elected bodies, and thus, perhaps, arbitrarily.

One of the most violent attacks on delegated legislation was made by the Chief Justice of England and Wales, Lord Hewart, in a book entitled *The New Despotism* (1929), which charged that this practice, coupled with administrative adjudication (whereby officials determine whether a rule has been broken in a particular case and, if so, impose penalties), had brought Great Britain under "the new despotism" of the public service.

Lord Hewart's book, which created a sensation in Great Britain, led to a careful study of the situation by the Committee on Ministers' Powers. The Committee came to the conclusion that delegated legislation is inevitable under modern conditions and that, in fact, the power had not been abused. Certain specific safeguards, however, were suggested. First, legislation should be drafted carefully and accurately. Second, the "precise limits" of administrative discretion should be laid down in the legislation, and courts of law should have the right to determine whether government authorities overstep their authority. Third, a standardized procedure

was proposed whereby publicity would be given in Parliament when regulations drawn up by the administration gave application to a particular law.

In June 1944, long after it was first proposed, a select committee of Parliament was appointed to consider all Statutory Rules and Orders and to decide whether or not they should be drawn to the special attention of the House. In case of doubt, the committee interviews departmental officials other than ministers to get factual information. Its duty at all times is "to protect the authority of Parliament and not the interests of a particular party or group."

It must be realized that, in any case, many administrative rules and orders are not valid until the legislature has given its consent either by positive or negative action. Some 3 or 4 per cent must be affirmed by Parliament; others must lie before the House for 40 days, and are then considered approved if there has been no nullifying prayer (i.e., appeal) against them (the Conservatives kept the House up night after night in the spring of 1951 instituting nullifying prayers against administrative orders in a vain effort to wear down the Labor Government's small majority); still others call for no proceedings by Parliament. In the United States, it may be noted, no administrative order is compulsorily reviewable in Congress; and unless the Administration voluntarily submits the order, it can be challenged only in the courts which, as in Great Britain, check to determine whether the rule is within the delegation of power, or whether proper procedures have been used. The distinctive American answer to delegated legislation is, however, the regulatory commission, like the Interstate Commerce Commission, set up by Congress (to which it reports) and specifically free from ordinary executive control. Such institutions would clearly violate the close relation between the executive and legislature existing in Great Britain, and in that country the safeguards against abuse of delegated legislation are kept largely within the parliamentary system itself.

The existing safeguards, in fact, offer Parliament, the courts, and the public the chance to keep delegated legislation in its place as an essential aid to, but not substitute for, parliamentary action. Few people, inside or outside

the government, wish to wade through the mass of regulations which determine the handling of mail; but if there is an unwarranted use of power, e.g., forbidding the mails to a particular publication, the courts can check it. If action is taken under one of those vague delegations of power involved in phrases such as "necessary and expedient for carrying this Act into effect," the responsibility is that of the legislature, which needs to define the grant of power more precisely. And if the public should find that a particular regulation works undue hardship, there is always the parliamentary question through which to draw attention to the issue. In general, the administration is likely to keep its eye on Parliament and its ear open to pressure groups when it is formulating regulations. Nonetheless, here, as in so many other places in government, constant vigilance is the price of liberty and responsible action.

### III. THE ORGANIZATION OF THE PUBLIC ADMINISTRATION

Both in Great Britain and in the United States, government has become the nation's biggest business. After World War II the British national administration employed nearly a million people and was spending over three billion pounds annually, more than a quarter of the national income. Where the ordinary citizen living under an inactive administration a generation before might feel little concern over administrative organization and personnel, the welfare of British citizens today, as never before, is dependent upon both.

There are two criteria by which the organization of public administration should be judged. In the first place each unit should have a well-knit *internal organization* which provides clear-cut division of work between offices, yet ultimate co-ordination and direction at the top. In this respect, there is relatively little difference between the organization of a government agency and a private business. The divisions into which a British government department are divided and their co-ordination under the permanent secretary of the department are like those of a department store in which one section sells clothes, another furniture, a third does the

bookkeeping, and all are co-ordinated and directed by the general manager.

In the second place, there must be a well-defined system of *public accountability* to keep government just and liberty intact. As part of the executive branch, administrative agencies have their most direct responsibility to their particular minister and to the Cabinet in general. But they are also responsible to Parliament and the public, and their acts are always potential sources of questions and criticisms. The element of popular control is an essential feature of every truly *public* body.

### **The Basic Units: The Ministries**

The backbone of the administrative structure in Great Britain is provided by the ministries or departments. The distinctive feature of a ministry is that it is organized hierarchically under a minister who assumes direct responsibility in Parliament not only for the general lines of departmental policy but also for the detailed actions of its members.

At first glance, British administrative organization appears confusing because there is little uniformity in the titles either of the ministries or those who head them. In the United States all administrative departments have been created by Act of Congress, and each is under a single head known as the Secretary (except in the Department of Justice and the Post Office). In Great Britain the ministries have had a variety of origins which is reflected in the variety of their names. Some ministries, like the Treasury (the descendant of the Exchequer, which evolved from the Royal Household; p. 19), stemmed from great offices of an earlier time; others, like the Foreign Office, War Office, Colonial Office, and Home Office, evolved from the ancient office of secretary of state (for which reason each is capable legally of performing the duties of all the others, except in cases where special responsibilities have been defined in legislation); and only the more recent ministries were created by Act of Parliament. In addition, some ministries were established under boards or commissions instead of a single head, as in the case of the Treasury and the Board of Trade. However, it was discovered in time that such ministries were more efficient if authority were

concentrated in a single person. Though there is still a Treasury Board, it never meets; the real head of the Treasury is the Chancellor of the Exchequer. (The Prime Minister has the title of First Lord of the Treasury, which has some appropriateness because he accepts the advice of the Permanent Secretary to the Treasury, the permanent head of the civil service, in selecting the major permanent officials.) The real head of the Board of Trade is the President of the Board of Trade. Thus despite seeming differences in organization, British ministries (except for the Post Office) are in fact all administered by a single head and increasingly their functions have been defined in legislation.

### **INTERNAL ORGANIZATION OF THE MINISTRIES**

Immediately below the minister in a British ministry is the permanent secretary, who combines the responsibilities of chief adviser to the minister with those of chief administrative officer of the ministry. The top offices in an American department nearly always change hands when a new administration comes into office, but in Great Britain high departmental officials gain their positions through experience in several ministries and by promotion and are more or less permanent.

The permanent secretary and the undersecretary, if there is one, try to hold themselves aloof from the practical details of administration so that they may have a broad view of departmental matters and may be constantly available for consultation with the minister, particularly when Parliament is in session. The detailed control of administration is mainly in the hands of the assistant secretaries who head the different divisions into which a ministry is divided. Each of these divisions deals with a particular kind of work. The Ministry of Labor and National Service, for example, is organized into divisions for factory and welfare, factory inspectorate, general employment policy and manpower allocation, industrial relations, appointments, finance, and so forth. The co-ordination of their work is secured through the close working together of all the higher officials in the ministry, and by use of intra- and interdepartmental committees.

A ministry thus has a functional division of work and an organized "chain of command"

in which those in each rank are responsible to those above them, the hierarchy finally culminating in the permanent secretary and the minister. This kind of organization gives rise at times to two very different types of criticism of the administration. In the first place, it is said that administrators are unwilling to take responsibility and continuously seek the approval of superior officers instead of using their own initiative. British cartoons, on occasion, depict administrators as sleeping soundly in little nests lined cosily with red tape (despite the fact that British official papers are now tied with white tape). Before an important decision can be made, for example, it must be initialed by every rank all the way to the top. Yet only in this way is it possible to maintain co-ordination of work and intradepartmental control. The solution, as has often been pointed out, is not less checking of important decisions, but an intelligent discrimination between what needs to be passed up "the chain of command" and what can be settled on the lower levels. In addition, an effective organization is needed whereby important material goes swiftly to the top and runs no danger of being pigeonholed on the way.

In the second place (and this criticism is sometimes called the "bogey of the Bureaucrat"), it is said that high civil servants are the real power in government, and that they may use power for their own purposes; in other words, that they are the managers of our modern political-economic society. The permanent secretary, as the link between the rest of the ministry and the minister, inevitably has a great deal of discretion as to what material he lays before the minister. Even more important is the fact that he has a much wider range of experience than the minister himself in the subject matter of the ministry, particularly when the minister has come recently into office. In practice, however, the relative importance of the minister and permanent secretary is likely to be a matter of personality. Inexperienced and weak ministers may be swayed consistently by their advisers; but any minister who has a definite conception of what he wishes to accomplish can carry it through. A high civil servant may, and should, put before a minister his best arguments in favor of one course of action. If he is overruled, the ethics of the service demand that he carry out his minister's policy

loyally and as effectively as possible. And in the end, since it is the minister who must stand before Parliament and assume responsibility for what his department has done, the minister will want to be convinced of the soundness of an important policy before he undertakes to support it publicly.

#### THE WORK OF THE MINISTRIES

Partly because the British government has so many new responsibilities, but more particularly because the British do not like the "holding company" type of department, with many bureaux, as typified by the American Department of Agriculture, there are a good many more ministries in Great Britain than federal departments in the United States. Moreover, the number of ministries changes more frequently, since new ministries are established when a new need arises. Similarly, two distinct though related fields of work may be grouped together in a single ministry, as in the Ministry of Agriculture and Fisheries. Sometimes, however, arrangements arising out of historical circumstances long persist, as in the Ministry of Health's responsibility for housing and local government; both were transferred in 1951 to a new Ministry of Local Government and Planning.

British ministries may be grouped roughly into five categories: those concerned with defense, with external relations, with internal order, with economic and social matters, and with finance.

*Defense.* The defense ministries are distinguished from the others because, though they have civilian heads, a proportion of their personnel belongs to the professional military service, whereas the permanent staffs of all other departments belong exclusively to the *civil* service. Before 1946 there were three defense departments: the Admiralty (given precedence because of the age-old British dependence on the Navy), the War Office, and the Air Ministry. These still retain their identity and organization but are now also co-ordinated under the Ministry of Defense—a somewhat similar arrangement to that adopted in the United States in 1947. The Ministry of Supply and the Ministry of Pensions are sometimes grouped with the defense services but, though their work is directly related to that of the services, these two depart-

ments belong in a somewhat different category because they are staffed by civilians.

*External Relations.* British external relations are carried on through a number of departments, which of necessity keep close touch with each other. The *Foreign Office* is the main center through which relations with foreign countries are conducted. British Embassies and Consulates in other countries are directly responsible to the Foreign Office, and a constant flow of information goes in both directions between the Foreign Office and what may be called its "field services."

Working closely with the Foreign Office at all times is the *Commonwealth Relations Office* which maintains relations with the overseas parts of the Commonwealth: Canada, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon.<sup>2</sup> Members of the Commonwealth maintain in each other's countries High Commissioners who perform much the same services as Ambassadors, except that the High Commissioners have a more informal and closer relationship to the government to which they are accredited. Throughout the war, for example, the Dominion High Commissioners in London met daily with the British Secretary of State for the Dominions (as the Office was known until 1947 when the present title was adopted) for exchange of information and discussion as to its implications. At all times the Commonwealth Relations Office passes on to the Dominion governments the salient features of the stream of information flowing into the Foreign Office from its Foreign and Consular Services, and the Dominions reciprocate with any special information which their own Foreign and Consular Services may have secured.

The third major ministry concerned with external relations is the *Colonial Office* which has more direct administrative responsibilities than either of the other two ministries in this group. The Colonial Office is responsible for the administration of Great Britain's colonial possessions; it appoints and supervises their Governors, and formulates policies for the colonies in as far as that is compatible with the particular

stage of development reached by a particular colony.<sup>3</sup>

The ministries engaged in defense and in external relations (with the general exception of the Colonial Office) share one important feature in common. They are working to a great extent with material which is confidential in character and of vast importance to national security. It is thus much more difficult for Parliament to maintain a close check on the work of these departments than on those concerned with purely internal affairs. The defense ministries tend to present block estimates with relatively few details on which parliamentary scrutiny can fasten, while the reply in Parliament that "it is not in the national interest" to give certain information is usually sufficient to satisfy a questioner. On the other hand, both the Foreign Secretary and the Prime Minister are expected to give fairly frequent and substantial surveys on foreign affairs to the House and to permit debate on general policies. When issues are critical and controversial, political leaders have not hesitated to call for votes of confidence on their foreign policies.

*Internal Order.* The supervision of internal order may seem at first glance to be less important than the work of carrying on external relations but it is, in fact, vital to the preservation of personal liberties. The Home Office has a wide variety of work to perform largely because it is a kind of "residual legatee," performing all the work of the ancient secretariat of state not parceled out to the other secretaries of state. The most significant of its functions is the control over the police in so far as such control is not vested in the hands of local authorities. This gives the Home Office jurisdiction over the metropolitan police of London and, because the national government gives grants-in-aid of local police services, the right to establish standards of organization, discipline, and equipment for the police elsewhere. Though the relative independence of English local authorities as compared with those on the continent means that the Home Office does not have anything like the authority of the French Ministry of the Interior, the general control over police is of very considerable significance. So, too, is the power

<sup>2</sup> Though Ireland officially left the Commonwealth in 1949, relations with that country are still handled through the Commonwealth Relations Office.

<sup>3</sup> For further consideration of the Empire, see pp. 205-12.

of the Home Office to decide whether to permit or disallow the bylaws passed by the major units of local government.

There is no ministry in Great Britain which is exactly comparable to the American Department of Justice. The British system of justice (as described in Chapter 8, Section II) is largely in the hands of the judges. The Lord Chancellor, the Attorney-General, the Solicitor-General, and the Director of Public Prosecutions perform among them a number of the functions of a Department of Justice, such as recommending appointments to judgeships, supervising the general organization of the court structure, and representing the public in prosecutions of great importance. But it is the Home Office which appoints the paid police magistrates (known as stipendiary magistrates) who are found in London and a few other big cities, and makes recommendations for pardons.

*Economic and Social Matters.* As one might suspect, the largest number of British ministries are concerned with economic and social matters. Some of them, like the Post Office (which not only manages mail but also telephone and telegraph services), provide *direct services*. The Ministry of Labor and National Service runs employment exchanges, the Ministry of National Insurance administers the public insurance plans, and the Ministry of Local Government and Planning (which in 1951 took over the responsibilities of the Ministry of Town and Country Planning), has direct responsibilities for land use throughout Great Britain and for the development of new urban centers to relieve the congestion in older ones.

Other ministries in this group, like the Ministry of Education, the Ministry of Health, and the Ministry of Agriculture and Fisheries, work closely with *local authorities*, setting standards and providing financial aid for local programs in their fields. These ministries, therefore, are more concerned with research, with drawing up programs, and with inspection to see that standards are maintained, than with providing services. The last they leave to local governments to carry out in terms of local conditions, under their supervision.

A third group of ministries in this general category includes the Board of Trade, the Ministry of Transport, the Ministry of Civil Aviation,

and the Ministry of Fuel and Power. These ministries work closely with the *public corporations* which administer services or industries in their special fields. Thus the work of these ministries, for the most part, is also in the field of research, supervision, and inspection.

Today the work of most British ministries is no longer strictly confined, as once was true, to Whitehall (the street on which so many of the central offices are located). Most ministries have regional offices; these are offshoots of the self-contained regional organizations established during World War II when there was fear of government services being disrupted by the rain of bombs on London, but these offices have now become a permanent part of British administrative arrangements and provide a healthy deconcentration of authority.

Popular control of ministries dealing with domestic affairs is not hampered by restraints on parliamentary questioning arising out of concern for secret material or "national interest." But popular control is made difficult by the technicalities and complexities of the functions under the control of these ministries. The minister himself often is less familiar with the minutiae of detail in the work of his ministry than is his colleague in the Foreign Office. Thus he is more dependent on his permanent officials both in day-to-day departmental work and in responding to parliamentary criticism. However, he is not often so cogently criticized as his Foreign Office colleague, for only the most expert or experienced private member can hope to master the details of a soil conservation or public health program sufficiently to dispute its technical or technological features.

Such a statement does not mean, however, that popular control must be ineffective in a technical field. Long ago, Aristotle pointed out that the guest who eats a meal is as good a judge of its flavor as the cook who prepares it. Parliamentary scrutiny of administrative work concentrates normally not on the details of the program but on its effects, for the citizen can tell whether or not he is well governed even when he does not know the technical remedy for administrative errors or abuses. It is up to the minister to explain why things have gone wrong and what is being done about them.



### **Interministerial Co-ordination and Control: The Treasury**

All the ministries that have been described so far have one thing in common: they are *line agencies*, a term which means that they deal directly with the public. Some agencies, whose work is wholly or in part on behalf of other ministries, are known as *staff agencies*. They include the Civil Service Commission, which sets the tests for selecting public personnel, and the Ministry of Works, which looks after the maintenance of public buildings (and now also regulates the building trades).

The most important staff agency in Great Britain and also the most important of the ministries is the Treasury, which is responsible for finance. The British Treasury combines the *staff* functions of the American Bureau of the Budget (which prepares the President's Budget and supervises the expenditures of departments) with the *line* responsibilities of the American Treasury Department. And since the British Treasury not only keeps close financial control over all other departments but also supervises the standards and conditions of work of all civil servants, it is the major administrative agency of interministerial co-ordination and control.

This co-ordination and control by the Treasury is exercised at every stage of departmental policy. No ministry may make a proposal involving expenditures or present a *financial estimate* to the Cabinet without first receiving Treasury authorization. Thus if a ministry wishes to expand its activities, it must persuade the Treasury that such an expansion is necessary and that it does not involve duplication of a task already performed by another agency. Since the Treasury is likely to be far more open to a projected expenditure if the reasons have been carefully explained in advance and if it has been consulted early in the development of the project, there is a strong incentive for representatives of other ministries to keep in constant touch with the Treasury in order to win a sympathetic comprehension of departmental needs. In this way, Treasury officials acquire an over-all picture of the plans and activities of all ministries, and this picture is of the greatest assistance in integrating and reconciling their multifarious activities.

In preparing the Budget the Treasury must judge which is the best way of utilizing the financial resources of the government and must decide which of the rival claims on the available revenue are most important. The decisions of the Treasury can be overruled only by the Cabinet and even here the Treasury occupies a commanding position since its head, the Chancellor of the Exchequer, is looked on as second in importance only to the Prime Minister. It takes an unusually persuasive minister with an unusually persuasive case to overbalance the Chancellor's arguments.

Moreover, there is no chance that Parliament itself will override the Treasury in the interests of a particular ministry, as happens so often in Congress. In the United States the President proposes the Budget but the Congress disposes of the money, often in a fundamentally different way from what the administration had planned. In Great Britain there is never any doubt that the major recommendations of the Budget, which is a closely knit financial plan, will be accepted exactly as proposed. In any case, no estimate for a ministry may be increased by Parliament.

The Treasury also controls the *collection and expenditure of public money*. All government revenue, which is collected for the Treasury by the Board of Inland Revenue, the Board of Customs and Excise, the Post Office, and the Commissioners of Crown Lands, goes directly into the Consolidated Fund which is deposited in the Bank of England. Almost half of the national expenditures fall in the category of *permanent charges* which are not voted annually: these include the interest on the national debt, the salaries of judges, and the Civil List which covers the expenditures of the royal family—all matters which it is felt should be kept out of politics. All other matters, including the expenditures of all ministries, must be authorized by *annual statutes*, the parliamentary check upon the financial system. This check is reinforced by a semi-independent Exchequer and Audit Department under a Comptroller and Auditor-General, an important nonpolitical officer, who is quite independent of the Treasury (though he works closely with it in checking expenditures by the ministries), and who makes an annual report on withdrawals of public



money direct to the Public Accounts Committee (p. 94).

Even after their estimates have been voted, ministries are not free to spend their appropriations as they wish. They can draw their money from the Consolidated Fund only through a requisition by the Treasury, countersigned by the Comptroller and Auditor-General, and this is normally issued for only one-quarter of their appropriations at a time. Moreover, any increase in the number of or in the salaries of officials in a ministry has to receive Treasury approval even if the ministry has enough money on hand to provide for it.

The relation between personnel and pay has given the Treasury a commanding position in regard to the civil service. The Permanent Secretary of the Treasury is often spoken of as the "head of the civil service," and the Treasury has authority in such all-important questions as salary scales (subject to arbitration in cases of dispute between the Treasury and the staff), reorganization plans, and superannuation allowances.

By virtue of its responsibilities the Treasury is economy-minded as evidenced by the famous comment of one Permanent Secretary of the Treasury that he "could not sleep for thinking of the defenseless condition of the British taxpayer." Line agencies are naturally more concerned to secure money with which to carry on their services than to curtail their expenditures, and it is highly important that a ministry like the Treasury scrutinize their requests and demand rigorous accounting of their expenditures.

#### CRITICISMS OF THE TREASURY

There is some criticism, however, of the way in which the Treasury uses its dominating position in the civil service and of its influence on national financial policies. It has often been accused of being narrow in vision, traditional in methods, and reluctant to adjust to changing conditions. That the Treasury had done little to keep administrative organization within the ministries up-to-date became apparent under the strain of World War II. The Organization and Methods section of the Treasury was staffed by only two members at the outbreak of war, though it rapidly expanded to forty-eight in response to obvious need. Organization "teams"

were sent into different ministries to advise on methods, and subsequently each large ministry established its own Organization and Methods division, which worked with the Treasury division in devising better methods. In regard to the civil service, it is urged that the old relationship between pay and personnel should be replaced by a division of responsibilities between the Treasury, which would retain financial oversight, and a new and vigorous personnel agency which could concentrate on developing the capacities of the people upon whom the operations of government depend.

The Treasury has been criticized also for the restraints it has exercised on national economic policies. After World War II British financial journals charged that the Treasury was retaining subsidies on food and keeping interest rates low at a time when inflation was threatening and the general economic situation demanded deflationary methods. Chiefly needed was a closer alignment between the financial and economic policies of the government. The most obvious attempt to secure this alignment occurred in November 1947 when Sir Stafford Cripps became Chancellor of the Exchequer at the same time that he was officially responsible for co-ordinating the programs of all the ministries concerned with economic programs.

#### *The Public Corporation*

When the British Government enters the field of business and industry to manage broadcasting services, distribute electrical power, and run the coal mines, it entrusts the operations not to ministries but to public corporations.<sup>4</sup> Except for public ownership, such a corporation is organized like a privately owned corporation or joint stock company. It stands outside the regular ministerial structure and in its day-to-day operations is responsible not to a minister or to Parliament but to a board holding office for a fixed term and with responsibilities defined by statute. The board itself is appointed by a minister, and works closely with the appropriate

<sup>4</sup> In the United States extensive use has also been made of the public corporation for business and developmental projects. Some of the most important of American public corporations are the Tennessee Valley Authority, the Columbia River Authority, and the Port of New York Authority.

ministry (p. 140). Nonetheless, within the limits which have been laid down for it by Parliament, this board is empowered to recruit a staff and plan the operation of the corporation. In an age when the increasing concentration of economic power in the hands of government arouses considerable concern, the public corporation provides a device for decentralizing authority and removing certain enterprises from the direct control and political pressure of the party which happens to be in power.

Though the public corporation may be organized and operated in a manner similar to the ordinary joint stock company of private, capitalistic management, its basic motivation is quite different. Where the private company is operated to make a profit, the public corporation is expected to provide the maximum service at minimum cost consonant with self-support. Though some public corporations have made a profit, it is not part of their responsibility to do so. They are expected to use the techniques of efficient business for the purposes of community service. "The public corporation," writes Herbert Morrison, "must be no mere capitalist business . . . even though it will, quite properly, be expected to pay its way . . . its Board and its officers must regard themselves as the high custodians of the public interest."

The justification for using the public corporation rather than the orthodox ministerial structure lies in the character of the work undertaken. A successful business must plan development over a long period, undertake experiments, and organize research. But such flexibility cannot be maintained under a fire of constant criticism which obliges officials to justify every step which they are taking. The ministerial structure is designed to centralize responsibility in a minister who can constantly be held to account in Parliament. Such control, however, makes for caution and dependence on precedent, and although such qualities may be desirable in administering legislation, they are less appropriate for some of the government's new activities. The carrying on of business demands a business structure.

Though the advantages of the public corporation are obvious, there nevertheless remains the serious problem of how to combine autonomy in the day-to-day operations of the public cor-

poration with ultimate public responsibility. It is generally accepted that the board which directs the work of the corporation should be relatively independent in planning action. Yet some degree of public control is effected because the board of each public corporation is appointed by public persons and is responsible to a particular minister for carrying out the functions laid down in the law which established the corporation. The major technique for supervision is through presentation to the minister and to Parliament of detailed annual reports and financial statements subject to public audit. In the case of the British Broadcasting Corporation (though of no other corporation) there is a review of the charter at ten-year intervals. Less official but no less important is the pressure of public opinion, which should remain alert to any slackening of standards and be constantly vocal in keeping public bodies aware of the public purposes they are designed to meet.

There are now a considerable number of public corporations in Great Britain, but the most distinctive features of their work and organization can best be seen through a description of two of them: the British Broadcasting Corporation, one of the earliest of British public corporations, and the National Coal Board, which though only established after World War II has the most staggering responsibilities of any of the public corporations.

#### THE BRITISH BROADCASTING CORPORATION

The B.B.C. is under the general direction of a seven-man Board of Governors selected for five years by the Prime Minister on the recommendation of the Postmaster-General, who is the minister responsible for broad issues of policy and finance under the charter of the B.B.C. The Governors are expected to personify broad representative views, but until shortly after World War II, when some new appointments were made, it was generally felt that the choice of Governors had been too much influenced by political considerations and that the appointees were both too old and too conservative. Under its first director, Sir John Reith, the B.B.C. built up a competent body of experts to direct programs, but showed some of that lack of initiative and response to public demand that might have been expected because of its monopoly posi-

tion. Since the war, however, it has embarked on a more imaginative program and has been rewarded by wider popular support.

In place of the vast number of programs interspersed with commercials which crowd the American wave lengths, the B.B.C. has three programs daily: the Light Program for popular entertainment; the Home Program for more serious fare; and the Third Program. The last, created in 1946 for the thinking public, is the most daring of the B.B.C.'s effort to improve public taste; potentially, as Edward Sackville-West has said, it is "the greatest educative and civilizing force England has known since the secularization of the theater in the 16th century." Half the program is devoted to classical and modern music; during the remaining portion there may be plays by Shaw, Racine, Euripides, T. S. Eliot, or Sartre, or discussions and lectures that explore fundamental subjects. Many of the best-known intellectuals in England—G. M. Trevelyan, G. D. H. Cole, Lord Lindsay, Julian Huxley—have been heard on this program. That it has not shied away from controversial subjects was illustrated by a brilliant hour-long debate between the atheistic philosopher, Bertrand Russell, and a Jesuit monk on "The Existence of God."

The B.B.C. is also the largest overseas broadcaster in the world, sending news abroad in forty-five different languages. During the war it supported the undergrounds of occupied Europe, and since then has remained a substantial force in British influence abroad.

The B.B.C. permits no advertising and is financed by an annual fee of £1, which is paid to the Post Office by each radio owner. The fact that it collects the license fees might appear to provide the Post Office with a means of controlling the work of the B.B.C., but in fact neither this nor certain other provisions of the charter of the B.B.C. have been used to influence its operations. Under the charter, for example, the B.B.C. must broadcast government announcements, e.g., police notices or agricultural bulletins (it may specify at whose request the notice is being given); it must not send out information which the Postmaster-General bans (so far he has never exercised this power); and in time of emergency the government may assume complete control of the B.B.C. One of the few pro-

hibitions which affects programs is the ban on the expression of editorial opinion; but a former ban on controversial subjects has been removed. The charter provides that the service must be developed to the highest level of quality in terms of national interest; the corporation license may be revoked if there is failure to live up to its terms.

What is perhaps most surprising to Americans about the B.B.C. is that it has a monopoly of all broadcasting and television in Great Britain. British broadcasting became a monopoly almost by accident, in fact, largely due to the preference of the Post Office for a single company with which to deal. The whole question of whether or not the B.B.C. should retain its monopoly was examined in a report issued in 1951 by a special commission, the Broadcasting Committee, under the chairmanship of Lord Beveridge. At that time there was a good deal of public criticism of the monopoly (a Gallup Poll reported 65 per cent in favor of competition for the B.B.C.) and various alternatives had been proposed, none of them supporting privately sponsored commercial broadcasting, but all involving some element of competition, e.g., having three or four public corporations, each with a percentage of the license revenue, and either operating over the whole range of radio, or else concentrating on one section of it, such as national, local, or overseas programs, or television. But despite these suggestions, the Broadcasting Committee so warmly endorsed the monopoly of the B.B.C. as to suggest that it should never come into question again. At the same time it proposed various safeguards against the dangers of monopoly: strengthening the Board of Governors *vis-à-vis* the permanent officials; more decentralized control of regional programs; more independence for television, and overseas broadcasting, within the general framework; and a more effective system of advisory committees.

It seems hardly likely, however, that the Broadcasting Committee has actually said the last word on monopoly in British broadcasting; at least, the advantages and disadvantages of a public monopoly in visual and audible broadcasting are likely long to be debated. There is a sense, of course, in which the planned British programs provide more rather than less variety

than do those in the United States. Americans are likely to say that their radio programs give the people what they want (but certainly not all the people), while the British give them what the B.B.C. staff thinks they ought to have. But the British believe that it is possible to develop public taste in a way unlikely to occur with the vast preponderance of programs of mass entertainment over the American radio.

At least, there is no uniform agreement that the B.B.C. has yet done the best job which can be done. To achieve this will require able and imaginative leadership not only from the experts on the staff but also from the representatives of the public on the Board and advisory committees. It requires constant criticism from the public itself. Only in this way can the B.B.C. meet its responsibilities for both entertainment and education.

#### THE NATIONAL COAL BOARD

The National Coal Board, which on January 1, 1947, acquired ownership and control of all British coal mines and, in addition, about eight hundred subsidiary concerns and a million acres of land with the farms, villages, and towns which lie upon it, has the most important and most difficult task to be entrusted to a public corporation, both because of the magnitude of its holdings and because of the key position of coal in the whole British economy. Moreover, the Board inherited an unenviable situation, for the industry had long been notorious for its outdated machinery, severe labor troubles, and generally depressed condition. Technical experts estimate that it will take between fifteen and twenty years for the reorganization to be completed.

The National Coal Board, therefore, faces a number of problems which are different from those of the B.B.C. Rather than taking over in the early stages of development, and from a virtually monopolistic company, as did the B.B.C., the National Coal Board must reorganize, consolidate, and modernize one of the largest and oldest of British industries. Though public funds meet the initial costs of modernization, and government bonds provide the compensation (determined by independent bodies) to the former mine owners, the mines are expected to earn their own running expenses. The

Board is responsible for all operations, for recruiting staff, and for handling labor relations. To undertake these responsibilities, the government chose a body of nine experts selected for their knowledge and experience in such fields as coal mining, fuel and power, marketing, accountancy, and science. This formed a sharp contrast to the B.B.C. practice of using a Board of "amateurs" to supervise its experts, and did not prove wholly satisfactory. Subsequently, in fact, there were added to the Coal Board some members who concentrate on general policy; and, in general, "policy boards" are now favored for public corporations over "specialist boards."

Despite its forty-eight area offices and nine divisional boards, the Coal Board has highly centralized control in all fields of operation. Moreover within the areas and divisions, the stress was originally upon functional organization, i.e., for finance, production, labor relations, marketing, and so forth, rather than on territorial organization. Thus despite the general responsibility of the area sections to the area manager, policy decisions were generally made by the higher functional section, e.g., by the divisional labor relations section. This emphasis on functional organization coupled with the high degree of centralization were widely criticized and the division boards now have more responsibilities than formerly. In addition, largely as the result of this experience, other public corporations established later, such as those for electricity and gas, were organized on regional rather than centralized lines and their regional authorities were given statutory recognition as was not true with the Coal Board.

The Coal Board has made considerable advances in technical reorganization of the industry, but is still far from conspicuous success in its most crucial task: achieving improved morale among the miners, and a higher output. In some ways, this is hardly surprising. The Board necessarily made considerable use of former management to run the mines and subsidiary operations; to the miners who saw "the same old faces" the change to public ownership made relatively little difference. Only gradually is a new attitude—of conciliation on the part of local management, and responsibility on the

part of the miners—having its effect on labor-management relations.

One factor in the decision to nationalize the coal mines was the insistence of the miners on having some share in control. Some miners still press for representation on the Board under the old view of "workers' control." A less striking means has been established, however, through a series of consultative councils at the national, divisional, and area levels; judging by the experience of France (see p. 353), this technique may well prove more workable than direct control. Of the 27 members of the National Consultative Council, six are appointed by the Coal Board, nine by the National Union of Mineworkers, nine by the National Association of Colliery Managers, and three by the National Association of Colliery Overmen, Deputies, and Shotfirers. Division councils have 20 members, and area councils 12, appointed by the same organizations in varying proportions. In addition, there are colliery consultative committees which can discuss everything connected with the pit but may not interfere with operations. This imposing array of committees, however, is only gradually enlisting the active interest and support of the miners. "Interest does not often extend beyond the committee to the bulk of the men," wrote the *Times* in 1949 about the colliery committees. This may well offer the key problem in labor relations in the industry. Only a greater sense of direct responsibility for the output of the mines is likely to overcome excessive absenteeism and the sluggish rise in standards of output.

Initially unimaginative in policy, the Coal Board has since 1949 been more effective in meeting the miners on their own ground, in explaining to them the need for such changes as closing inefficient pit heads, and in sparking their enthusiasm. Earlier criticisms of its lack of comprehensive proposals for reorganization have now been met by a fifteen year plan, announced November 1950, involving the reconstruction of 250 collieries, and the closing of about 400 pits. The Coal Board estimates that total output will increase by about 20 per cent in the fifteen year period, despite a decrease of 11 per cent in working force; this assumes an increase in productivity of nearly 40 per cent. To achieve this will require not

only reorganization and re-equipment but also a high standard of morale.

To some extent, the Coal Board shares its ultimate responsibilities with the Minister for Fuel and Power: together they decide on the quantities of coal to be produced and the prices to be charged, and determine issues of general policy affecting the public welfare. The Minister, of course, is the link between the Board and Parliament, as the Postmaster-General is the link between the B.B.C. and Parliament. Parliamentary questions and debate are the two obvious means whereby Parliament seeks to exercise supervision over the public corporations, and it is noticeable that there is a far higher use of both in regard to the newer, post-war public corporations than those established earlier, largely because the spheres of operation of the more recent corporations are so crucial. In 1947, the Coal Board was the subject of 216 questions (of which 40 were refused by the Minister); in 1948 of 161 (of which 14 were refused)—in both instances a far higher number than were asked regarding any other public corporation. Thereafter, the number declined sharply, partly because the crucial periods of organization and of scarcity were over; partly, perhaps, because the coal industry was debated on the vote for Supply of the responsible Ministry both in 1947 and 1948, and there were full day debates on the National Coal Board Report in 1949 and 1950. The Minister has tried to limit questions to matters of general policy, and avoid those on day-to-day management, admittedly the sphere of the Board; but many questions have been on matters of detail (which accounts in part for the large number refused). In the debates, an appeal was made for an impartial approach, but in practice the opposition has adopted the role of relentless critic and the Minister the role of defendant and advocate.

While Parliament acts on behalf of the public, more direct means of representing consumers' interests have been sought for each of the public corporations. The Coal Board has two central bodies: the Industrial Coal Consumers' Council, with twenty members and a chairman who represent consumers, sellers, and suppliers of coal or manufactured fuel for industrial purposes; and the Domestic Coal Consumers' Council, with twenty-four members and a chair-

man representing the same groups where the fuel is for domestic purposes. But thus far these councils in their reports have too often sounded as if they were apologists for the Coal Board rather than defenders of the public interest, so that what might be a valuable role has not yet been fulfilled.

#### EVALUATION OF THE PUBLIC CORPORATION

Public ownership in Great Britain is still too new for one to draw any final conclusions. The use of the public corporation, with administrative and financial independence in day-to-day operations, coupled with general responsibility to a minister, appears to be well established. Its successful operation, however, demands certain safeguards which have not always been maintained. The appointment of the Board is a crucial consideration. The members need to have a strong sense of public responsibility in its broadest and fullest sense. Political appointments, as rewards for services to a party, are particularly unfortunate; but there is also a danger in the appointment of too many technicians. An expert in the technical functioning of the radio industry is not necessarily the best person to judge what the public shall hear. Some balance is needed between an expert knowledge of an industry and an understanding of its position in the social and economic life of a country. Equally important are imagination, flexibility of mind, and vigor.

Much criticism centers on the vagueness of the relation between the Minister and the public corporation for which he is broadly responsible. In practice, it is not easy to make the division between day-by-day administration, for which the Board is responsible, and general policy, for which it shares responsibility with the Minister. Not only Conservatives but also Labor members have criticized the reluctance of Ministers to use their statutory powers to give directions to the Boards, thereby, in their view, avoiding responsibility to Parliament. It seems clear, in fact, that Ministers tend to influence Boards by informal pressure rather than by direct orders; and they ordinarily refuse to comment on policies for which their responsibility is not clear. Yet constant interference through parliamentary questioning would destroy the autonomy which it is the purpose of the public corporation to

provide. More valid, perhaps, is the opinion that Ministers should not automatically defend the corporations in debate, but such objectivity must be matched with comparable objectivity on the part of the opposition.

In any event, there are so many demands on the time of Parliament that it can hardly hope to undertake a fundamental consideration of any public corporation, let alone all public corporations. For this reason some people suggest establishing special reviewing and criticizing bodies, such as a parliamentary select committee that would review the work of all nationalized industries or even a full economic parliament. All these proposals might involve the risk of curbing enterprising action by the Board. One suggestion, however, has particular merit and support: to establish a price tribunal for each of the new public corporations on the pattern of the Transport Tribunal, or, in this country, the Interstate Commerce Commission, which passes on changes in railway rates. This would mean that changes in the price of coal or gas would be considered by an expert body which took more careful account than is now done of internal efficiency and of the effect of higher prices on other nationalized industries, and on the economy as a whole.

Opponents of public ownership often ask how it is possible to assure efficiency in the absence of competition and the incentive of the profit motive. And it must be conceded that the extent of the British nationalization program means that in certain fields, like the distribution of power, private enterprise no longer provides a "yardstick" by which to measure public efficiency (to reverse the saying that the T.V.A. in the United States provides a "yardstick" by which to measure private enterprise). But ability to compete on a world market provides a standard in the case of coal. Competition between public corporations, e.g., for electricity and gas, may help to provide good service at low price. Public scrutiny of annual reports and open accounts provide spurs to achievements. Price tribunals are important, and also councils established by the consumers themselves to look after their own interests. Consultative committees can be useful, though probably only in direct ratio to the degree in which they represent general rather than special interests. In the end,



replacement of the incentive of profit by the incentive of public service will require strength of character on the part of those responsible for the operations and a keen, discriminating, and continuing interest on the part of the public.

An increasingly important issue is the problem of co-ordination between different public corporations. But this is only a limited way of pointing to the much larger problem of how the Cabinet, in addition to its traditional political responsibilities, can cope with the vast responsibilities involved in government operation of key portions of the economy. It is to the broader problem of organization for general economic planning that we must now turn.

### **Organization for Economic Planning**

The foremost political problem of our age is how to combine economic planning with individual liberties and the rule of law. To many people the very words "economic planning" sound authoritarian and incompatible with democratic processes of popular control. But the British are trying to work out methods of economic planning which will provide a balance wheel for their "mixed economy" and yet be under the control of the Cabinet and Parliament.

Economic planning involves not only the activities normally undertaken by ministries and public corporations but also the rest of the economic life of the country. This means that the government is planning public policy in terms of general objectives for the whole country, such as greater production for export or more capital goods or a rise in the standard of living. Potentially, therefore, economic planning is the most far-reaching activity of government. It can be intelligently undertaken only on the basis of a vast amount of information concerning national and international conditions. Moreover, it is often useful to secure the experience and views of private enterprise and labor. Lastly, it is essential that all the information and views should be sifted and analyzed so that sound conclusions can be drawn as to what should be the character of public policy.

In the words of Herbert Morrison,

Planning can be divided logically into five stages: the first, without which none of the others can happen, is making up one's mind to plan and

grasping what planning means. The second is assembling the necessary facts and forecasts to make sure that a plan can be put on a sound, practical basis. The third is devising alternative plans and seeing what each offers and costs in terms of resources and disadvantages. The fourth is taking decisions between alternative plans, including the decision as to what is to be planned and what left unplanned. The fifth and far the most extensive stage is carrying out plans in practice. This includes explaining them, adjusting them and devising all the necessary ways and means of ensuring that what was planned on paper does happen at the right time in the right place and in the right way.

The vast scope of the material relevant to economic planning makes it necessary to have at least two kinds of bodies working on it: fact-finding bodies, and analyzing and co-ordinative bodies. In addition, advisory bodies are often useful in making available the experience and views of private enterprise and labor. The British Cabinet makes use of all three types of agencies in securing the material on which its final judgments are based. But it also draws heavily at all times on the information and facilities of the regular departmental structure. Economic planning is not looked on as something apart from or above the regular administration, but rather as a natural supplement to it. And like all other administrative activity in Great Britain, economic planning finds its focus and final formulation in the Cabinet.

When special information and recommendations are needed by the government in solving a particularly difficult problem, it has long been the practice in Great Britain to establish a Royal Commission (see p. 94) composed of distinguished persons who study the issue and draft an authoritative report which usually serves as the basis for legislation. Much the same kind of technique has been used in Great Britain since World War II for securing special information on various facets of the economic situation. The distinctive feature of these new bodies, which are known as "working parties," is that their membership represents the public, management, and labor in equal proportions.

The most extended use of "*working parties*" has been to secure expert information on conditions within unnationalized industries and advice on what changes are needed to make them more efficient. Among such industries are cot-



ton, pottery, boots and shoes, cutlery, clothing, carpets, lace, and so forth. In most cases, the "working party" consists of twelve members, who serve part time and are unpaid, are selected by the President of the Board of Trade after consultation with the industry concerned, and work under a chairman chosen from among the members representing the public.

Though the reports of the "working parties" provide highly useful material, few of them have been unanimous in regard to all recommendations. The important Cotton Report, for example, showed a sharp division of opinion between those who felt that increased mechanization was so important that it should be made compulsory and those who believed it should be optional with the individual firm. There was a similar division between those who felt that costs and prices of cotton products could be considerably reduced if re-equipment were combined with amalgamation of firms and the closing of certain mills and those who doubted that the results would be so advantageous. Such divisions of opinion do not destroy the value of the reports, for they suggest alternative plans for improving conditions in a given industry. The chief importance of these reports, and others on more general topics, is to provide the information to be used by bodies having a wider view of the economic structure as a whole.

Another source of information and advice are the *advisory committees*, composed of experts drawn from within or outside the government service, which work closely with individual ministries or the Cabinet as a whole. The Colonial Office, for example, after World War II added more than ten advisory bodies to the five previously existing. One of these bodies, the Colonial Economic and Development Council, established in 1946, advises the Colonial Secretary on the whole field of colonial developments. On a broader level the National Joint Advisory Council, convened by the Ministry of Labor and representative of organized labor and management, gives advice on how to meet manpower shortages in important industries.

Important as are the working parties and advisory committees, they stand outside the *main structure for economic planning*. This structure, well rooted in the ordinary administration, has evolved empirically and in response to the de-

mands put upon it, demands arising not only out of long range objectives but also out of short-term economic problems like the loss of American dollars following the temporary international convertibility of sterling in July-August 1947. Thus, like the organization of the Cabinet which it is designed to serve, planning machinery in Great Britain has been flexible, adjustable to circumstance, and, to a considerable extent, the result of experimentation.

Until November 1947, the central piece of planning machinery below the level of the Cabinet was the Official Steering Committee, which worked under the chairmanship of Mr. Morrison, Lord President of the Council, and consisted of the permanent heads of the key economic departments, or their deputies, together with members of the Central Statistical Office (established in 1941 as part of the cabinet secretariat and responsible for the *Monthly Digest of Statistics*), the Economic Section of the Cabinet Secretariat (also established in 1941 and responsible for the *Economic Surveys*), and the Lord President's own office. In the words of Mr. Morrison, the Official Steering Committee formed "the central economic team for gathering and assessing economic intelligence, preparing forecasts, framing economic plans, advising ministers on the advantages and disadvantages of these plans, and keeping under review the execution of plans when authorized and put into operation." Its plans and estimates went to the Lord President's ministerial committee and, when considered necessary, from there to the Cabinet.

But the straitened economic circumstances of 1947 demanded a still higher degree of integration among government departments, and between government and industry. Each of the relevant departments was required, therefore, in March 1947 to set up a full-time planning staff under a senior official of the administrative class; these officials formed the Central Planning Staff, under the Chief Planning Officer, Sir E. N. Plowden. Initially in the cabinet offices, and at all times working closely with the Central Statistical Office and the Economic Section of the Cabinet Secretariat, the Central Planning Staff became part of the Treasury in November 1947, though without losing its separate identity. The move reflected the intimate interrelationship of

economic and financial policy; and the responsibility for both was assumed at that time by the Chancellor of the Exchequer. Similarly, it reflected the necessary interrelation of domestic and international economic planning. (The Lord President's Committee henceforth confined itself to noninternational, noneconomic co-ordination and planning.) It seems likely, also, that placing the Central Planning Staff in the Treasury reflected an increased concentration on short-term economic problems as compared with long range objectives. Moreover, despite Great Britain's heroic economic recovery, little that has happened since then suggests that it can yet move much beyond this concentration on its immediate problems.

The distinctive feature of British planning machinery is that it is auxiliary to the ordinary structure of government, neither apart from, nor superior to it. It builds upon the experience and resources of the departments, and, at the same time, pushes beyond their concentration on their particular specialities to consider not only the needs of each sector of the economy in relation to the available resources of manpower, their requirements of material, and special problems of foreign exchange, and so forth, but also the interrelation of these needs. The purpose of the planning machinery is not merely to "think up" desirable objectives but, as the official explanation of the government's conception of planning, the *Economic Survey* of 1947, pointed out, to secure exactness of information, gain the earliest possible awareness of the trends in economic and social life which must be taken into account if the plans are to become effective, and develop coherence of thought so that problems and possibilities may be grasped as a whole. Only in this way can the "economic budgets" for the different sectors of the economy be co-ordinated into a working arrangement.

While fact finding and co-ordination are the responsibility of civil servants, final decisions on policy are not left to them any more than in ordinary departmental matters. At the *ministerial level* information and plans are reconsidered by the heads of the ministries concerned with economic affairs, working under the direction of whichever minister is chiefly entrusted with the co-ordination of economic policy, e.g.,

the Lord President of the Council or the Chancellor of the Exchequer. It is at this level that policy is determined, subject to the overriding authority of the whole Cabinet, and directives issued. Thus ultimate authority rests in the hands of ministers who in turn are responsible to Parliament.

### Conclusion

When the whole complicated structure of public administration is surveyed, it may well seem that neither co-ordination nor popular control is particularly effective. It is true that much governmental activity necessarily depends on the caliber of the people who staff a particular agency, a fact which points up the importance of the next topic, the selection, training, and standards of the public service. But at the same time, it must be emphasized that there is no public agency which is able to act in an arbitrary fashion and apart from the rest of the administrative system. Though government uses a business form for public enterprise, each public corporation works closely with a minister. Economic planning also makes the ministers more and not less important. Moreover, the ministries continue to provide the backbone of the administrative structure and, through the ministries, the boards, committees, and corporations are linked to the Cabinet and to Parliament. And if this at times seems an exceedingly long and slender link, it is nevertheless the one which makes public control possible.

## IV. THE NATIONAL PUBLIC SERVICE

The success of any organization depends upon the people who do its work. This fact is particularly true of the public service, which demands of its members not only efficiency but also devotion to *public* purposes. To the extent that the public servant acts in an official capacity, he must be perfectly neutral toward the aims of the government. He must be willing to serve with equal energy and devotion the purposes of a Conservative government when it is in power and of a Labor government when it is in power. If his private opinions are opposed

to public policy, it is the public policy which he must serve, conscientiously and wholeheartedly.

To state this principle, however, is not to determine, in every instance, the best way of realizing it in practice. Both Great Britain and the United States have had to find practical answers to a long series of subsidiary questions: What training and what qualities are most important for the public servant who is to be both expert and responsible? To what extent can public servants be allowed, in private life, to engage in partisan political activity? To what extent may they enjoy the right to strike or (especially in business enterprises which are run by the government) the right to a closed shop? How representative should the public service be in the sense of having its personnel typify a cross section of the people whom it serves? Is it more desirable for the highest public servants to be "professional" in the sense of having permanency of tenure or to be active supporters of, and to change office with, the Government of the day?

### *The Civil Service*

Great Britain developed one set of answers to these questions in the middle of the nineteenth century, and these answers still determine for the most part the methods of selecting people to staff its ministries. Reform of its government service arose out of Great Britain's own particular type of spoils system: not, as in the United States, one in which new administrations regularly replaced government officials with their own nominees, but one where government offices had become the preserve of the cadets of noble families who could not make a living elsewhere. Thus the principal need was not, as in the United States, for permanence of tenure, but to secure people of ability and appropriate training.

At that time most government work was "paper work"; that is, it consisted mainly of collecting material, keeping records, and writing reports for the use of ministers. The work of the public service seemed to fall, therefore, into a great number of routine jobs, which could be done by people of average ability as long as they

were careful and well supervised, and a very much smaller number of positions at the top which demanded great insight and judgment. When Lord Macaulay undertook the task of "housecleaning" the service, it was decided that recruitment for both lower and upper positions should be by merit. For the top key group of officials Macaulay had the example of the training instituted somewhat earlier at Haileybury for the recruitment and selection of young men for the Indian service, a selection avowedly designed to secure the type of able, cultured English gentleman who would best maintain British prestige abroad. Such men were the products of the English universities of the day, and it was therefore not surprising that the tests designed for recruiting the home civil service were likewise geared to the educational system: those who wished to become high administrators had to demonstrate their ability through tests similar to comprehensive final examinations at a university, while the "army of clerks" was recruited on the basis of examinations similar to those in secondary school.

To make sure that the tests were administered fairly, a Civil Service Commission<sup>5</sup> was established in 1855, and since 1870 open competitions have been the normal means of entry to the British civil (as contrasted with the military) service. Success in these competitive tests is necessary both for positions within Great Britain and Northern Ireland, comprising the Home Civil Service, and for the senior positions in the Foreign Service and Colonial Service. Those people who receive a certificate of qualification from the Civil Service Commission are ranked as part of the established civil service, and though there are no legal safeguards of permanence of tenure in the British civil service, in practice members of the established service have long enjoyed permanent tenure.

<sup>5</sup> The British Civil Service Commission is composed of three members, appointed by the Cabinet after consultation with high Treasury officials. Unlike the United States Civil Service Commission whose three members are generally chosen from outside the service, the British Commissioners are nearly always persons of long experience in the British civil service and hold office until eligible for retirement under regular civil service rules. Since the British Commissioners almost never have had active political experience before appointment, there is no rule in Great Britain as in the United States that only two of the three members of the Commission may belong to the same political party.

## SELECTING CIVIL SERVANTS

The present structure of the British civil service and the present means of choosing its members vary little from the original pattern set up in the mid-nineteenth century. At the base are the two clerical classes, the *sub-clerical* and *clerical*, whose members perform the simplest work among the nonprofessional, nontechnical classes, which altogether comprise more than four-fifths of the established civil service. Much of the work is repetitive, or performed under orders, and can be handled by people brought into the service at sixteen or seventeen with good standing in the first years of secondary education.

If members of the clerical classes show resourcefulness, initiative, and judgment, they may be promoted to the *executive* class. Or the executive class may be entered directly by eighteen- or nineteen-year-olds who have completed secondary school, passed an examination, and had an interview. Members of this class perform as important tasks in the civil service as noncommissioned officers perform in the army. They undertake preliminary investigations, and sometimes collect data for the answers to parliamentary questions. They may also have full responsibility in questions of minor importance. Often they become specialized in fields like taxation or accounting. Ultimately they may acquire responsibilities in the organization and control of their departmental sections, and may even carry out important decisions.

The most distinctive class in the British civil service is the so-called "permanent brain trust," the *administrative* class. On this group rest the responsibilities for formulating policy and for controlling and directing departments. The top members of the administrative class are the advisers of ministers, and in so far as the civil service wields political influence, it is through this group. We have seen that a minister in the British system is first and foremost a political figure and only secondarily an administrator, and that he therefore depends a great deal on the chief officials in his department to organize and direct its work and also to provide him with information and advice important for political decisions and for successful debate. Carefully chosen from the cream of university graduates between the

ages of twenty-two and twenty-four, the members of the administrative class are men (and, increasingly, women) who can meet the outstanding members of any profession on equal terms.

One of the major differences between the British and American civil services lies in the fact that the former is a career service in which the members of the administrative class have a chance for promotion to the highest administrative positions in the department, whereas in the United States the top departmental offices nearly always change hands when a new administration comes into office—not simply, as critics sometimes suggest, in order to provide political spoils for the electoral victor, but because of the belief that the policies of the new administration will be carried out most effectively if those responsible for their administration are actively in sympathy with them. The vigor and imagination with which some political appointees tackled their jobs in the early days of the New Deal give support to this view, and some observers have suggested that the British system, by forcing a high civil servant to subject his own political beliefs and prejudices to those of the government which happens to be in power at a given time, may well substitute experience for a dynamic enthusiasm. But the British do not believe that men of the highest caliber will enter the civil service unless they can look forward to positions of great responsibility in which they will share in the making of policy. In consequence, the British have been prepared to place the greatest weight on collective intelligence and trained discrimination.

The desire to attract people of great ability into the civil service at an early age explains the British practice of recruiting for broad grades or classes at sharply defined ages and on the basis of general tests similar to those in the educational system. The American service, in contrast, more often selects people for particular positions and places great weight on practical experience and specialized knowledge without regard for age. The American practice makes possible a readier exchange between government and other occupations and helps to keep the civil service in touch with developments in private business or in the law, and it is noticeable that the British are making increasing use of this ap-

proach in selecting specialists. For their general administrators, however, they maintain the traditional system.

*Tests for the Administrative Class.* There is some question, however, of how one can predict that a twenty-two- or twenty-three-year-old will develop the qualities of political acumen and administrative skill necessary to become a sound political adviser, or the ability to carry out administrative programs, for example in housing or public health, in such a way that the public will not be antagonized. The British have faith, however, in the written tests and the interview which are the customary means of selection.

The competitive *written examinations*, which generally count for 1,000 points out of a total of 1,300, cover eight subjects: three of them, English, contemporary affairs, and some general topic, are uniform for all, while the other five may be chosen from a list of nearly sixty, including obscure and technical subjects. In the United States the examinations designed for college seniors interested in entering the public service lay emphasis on special subjects relevant to the work they will perform; but in Great Britain an examination in Sanskrit will be weighted as heavily as one in economics. The judges are concerned primarily with the candidate's ability to express himself and to handle material with which he is familiar. They also try to avoid having their tests influence the educational curriculum.

The written tests are normally combined with an *interview* designed to give the examiners an indication of the candidate's ability to meet people and to respond quickly and decisively to a challenge. Some doubt has been raised regarding the fairness and adequacy of the interview which counts for 300 out of the 1,300 points but rarely lasts more than fifteen minutes and is largely unplanned in character. "You may ask him almost anything that occurs to you to find out what his interests are and how he reacts to other people and other things," said a member of the Civil Service Commission once in describing their interview technique. "It is as wide as we can make it. Of course you ask him about his games and sports; everything under the sun really." Such comments suggest that the "public school boy" has a particular advantage in the

interview partly because he is likely to have had a richer variety of experiences both in education and in travel than the product of the ordinary secondary school, and partly because of his superior poise, manners, and appearance. The examiners repeatedly insist, however, that they have no bias towards a particular "type" for the civil service.

The general tendency, in fact, seems to be towards putting more rather than less weight on the interview, though at the same time developing more systematic techniques for gauging qualities of adaptability and leadership. The interview has been used increasingly since 1920 as the means of selecting scientific, professional, and technical officers whose professional qualifications are established by their certificates. After World War II, when there were many veterans outside the normal age limits to be considered, qualifying examinations were used in conjunction with intelligence tests and extended interviews in making selections. This practice developed finally into a whole "battery of tests" conducted over a period of two to three days, at first in a "country house" and now in London, for a group of about twenty candidates at a time. This selection board remains advisory, however, to the final selection board which uses its own interview in addition to the reports and examination results in making its decision. The Foreign Service now always uses the "house party" technique of testing, but it is only one of several means used for the administrative class. Thus in general there is still a combination of written tests and personal interview, but with more emphasis put upon the latter. In view of the practical responsibilities being carried increasingly by the civil service, this trend seems likely to continue, for the interview is a particularly good means of gauging those qualities needed for leadership and incisiveness on the job.

*The Background of Those Selected.* What kind of people do these tests bring into the civil service? Contrary to the popular belief, the four-thousand-odd members of the administrative class of the Home Civil Service are not drawn exclusively from the privileged classes. It would be even less accurate, however, to suggest that they represent a cross section of the nation as a whole. Few of the higher civil servants are aristocrats or men of great wealth, but even fewer

are drawn from the working class or the lower middle class. The great majority have come from that part of the upper middle class which must work for its living but which shares the manners and the outlook of the "ruling class" (see p. 11). Comparatively few of them have attended the most exclusive "public schools," but a high percentage have attended Oxford or Cambridge (often with the help of scholarships). In recent years, however, graduates of other universities have had some success; and almost a quarter of the candidates accepted in the years immediately before the war were drawn from the service itself by promotion and examination.

Two developments are tending steadily to break down the "class" character of the administrative class: the more liberal program of promotions developed after World War II, and the widening of educational opportunities for poor but gifted students. In the past the different classes in the British civil service were so rigidly separated that it was almost impossible to pass from one to another. The Civil Service Commission now provides special competitions limited to established civil servants through which members of the clerical and executive classes may be promoted to the administrative class. Even more influential in the long run in changing the character of the administrative class may be the increasing numbers from the working class who are going to the universities and can thus compete in the advanced civil service examinations.

*The Foreign Service.* Though there are many parallels between the work of the members of the administrative class of the Home Civil Service and the work of the officers of the Foreign Service, there are also differences. Foreign Service officers are more "on their own" than officials at home. While a Foreign Service officer is a channel of communication between governments, he is also expected to act as a sensitive "listening post," interpreting public opinion in the country where he is stationed for the use of his own home government in determining policy. He is expected also to interpret his own country to the people in the country to which he is accredited. In a sense, Foreign Service officers (who include Ambassadors since the British service is a career service) must be both first-class

reporters and good public relations men. These responsibilities of the Foreign Service have led to special emphasis on qualities of personality and, in the past, on such background and training as is likely to be possessed by relatively few.

Thus though the Home Civil Service has never been the preserve of the wealthy and aristocratic, the same cannot be said of the Foreign Service. In the past, candidates had to be approved by a Board of Selection, which was likely to be influenced by a noble name; and in addition to the regular tests for the administrative class, Foreign Service candidates had to meet certain language requirements which could be fulfilled only through extended study abroad. In 1943, however, the Board of Selection was abolished and the tests for general capacity and character were separated from those evaluating knowledge of foreign countries and languages. Candidates selected as a result of the regular examinations for the administrative class and of the interview now receive an eighteen-month period of study abroad at public expense. The special knowledge and language tests come only after this foreign study period is ended. Another substantial step toward greater equality of opportunity was the reorganization of the Foreign Service, which now consists not only of the Diplomatic Service but also of the Foreign Office, the Commercial Diplomatic Service, and the Consular Service, with similar conditions of entry for all.

*Professional, Technical, and Scientific Personnel.* In addition to general administrators, the government service has great need of professional, scientific, and technical personnel. In selecting the doctors needed for public health work, the engineers for building bridges and viaducts, or the physicists for atomic research, the government uses the same standards of training and experience as any business wishing to make use of expert knowledge. As already stated, the interview is used extensively for making the final selections for these posts. Both classification and recruitment of such personnel is largely interdepartmental.

Top posts in local government, both in the United States and in Great Britain, are often given to experts. Sometimes the result is to turn a good doctor into a poor administrator. For this reason, the British national service has operated



on the principle that "the expert should be on tap and not on top." But with the growing importance of scientific discoveries, many people feel that the separation between administrator and expert may well be too rigid and artificial. Before the war, the Post Office, for instance, replaced the Permanent Secretary, former head of that hierarchically organized ministry, by a Board composed of administrators and professional experts who work together to determine the policy for this largest of British businesses. No other department has followed its example, but every minister frequently consults the top experts in his department on special issues of policy, though rarely enough to satisfy them. In fact, technicians and scientists are sometimes openly critical of the degree to which they have to transmit their ideas through the permanent secretary instead of having constant direct access to the Minister.

#### TRAINING ADMINISTRATORS

Although in recruiting general personnel the British civil service deliberately places its emphasis on capacity rather than experience, in the belief that people of intelligence will be able to learn whatever they need to know after they have entered the service, the process of training within the service has until recently been haphazard. Many American departments make a conscious effort to acquaint new civil servants with office routine and to help them acquire the best techniques for performing their jobs. The British service has long been content to trust to the natural processes of growth.

Prior to 1944 a young assistant principal (the entering rank in the administrative class), still keyed up from the preparation for competitive examinations, was likely to feel a sense of frustration when he reported for work and found that for the first months he was expected to find his own way around the office and perhaps make digests of ancient files of uninteresting material. In 1944, however, programs of orientation and training were introduced for all grades. The assistant principal now has a three-month course in different phases of administrative and technical work given by senior members of the administrative class. At the same time that he has experience with "live" work under supervision, he acquires some of the basic skills of the good

administrator, the power to go quickly and accurately to the heart of files of material and documents, and to produce letters, abstracts, or memoranda in clear and effective style at short notice.

After two or more years' experience he may be transferred to the Treasury, which picks its personnel from within the service; or if he is particularly lucky, he may become private secretary to one of the higher civil servants or even to the minister. Such a secretary comes into day-by-day contact with policy-making, sits in on interviews with Members of Parliament, and acquires by experience a sense of what is feasible. The next step is to become head of a section, with authority in that limited sphere and the chance to demonstrate ability to handle people and to remain calm under strain. If he makes good, he may become an assistant secretary in charge of a division. Once at this rank, he becomes a part of what is called "the higher civil service" and is looked on as a direct participant in the making of policy. It is he who decides what matters in his division are important enough to be referred to the permanent secretary. In time he may even become one of the five or six in the ministry with whom the minister habitually confers.

This kind of experience keeps members of the administrative class constantly in touch with policy and provides both a broad view of the work of the ministry as a whole and detailed knowledge of some particular section of it. In order not to get out of touch with conditions outside the office, trainees often spend two- or three-month periods of observation with a particular business or industry. Foreign Service members spend part of their probationary period in offices of the Home Civil Service, and home members are encouraged to travel abroad. Some exchanges have been made with other parts of the Commonwealth.

Perhaps the most comprehensive in-service training programs are those carried on by such Ministries as Labor and National Insurance which include both courses for specialists and orientation courses for the clerical staff and others. This is a reflection of the increasing attention being paid to in-service training since World War II which has led to establishing



training divisions in all the larger ministries as well as to the appointment of a Director of Training within the Treasury. There is no sure way, however, of preventing young administrators from becoming stereotyped in their approach to problems unless the ministers and higher civil servants themselves are energetic and imaginative.

#### EMPLOYER-EMPLOYEE RELATIONS

When government becomes an employer, it faces many of the same problems of labor relations that private business encounters. There is one major difference in the fact that strikes by civil servants, though not illegal in Great Britain (nor statutorily punishable in the United States until the Taft-Hartley Act, 1947) are not considered an acceptable form of pressure. But government employees below the administrative rank are not restricted in their right to form unions either in Great Britain or in the United States. In fact, the British government encourages trade unions for industrial personnel and Civil Service Associations for nonindustrial personnel. Three-quarters of all nonindustrial civil servants belong to one or another of three hundred Civil Service Associations, which vary in number from a few members of a single grade in one local office to the 153,000 members of the Union of Postal Workers.

*Union Affiliations.* For nearly twenty years between 1927 and 1946, established civil servants were not permitted to be members of or to affiliate with ordinary industrial unions. This prohibition was an outcome of the General Strike of 1926, the most serious threat ever made by organized labor to the economic life of the country. Civil servants did not participate in the strike, though some civil service unions, to the displeasure of the higher civil servants, were openly sympathetic to the strikers. But in the Trades Dispute Act of 1927, enacted by the Conservative government after the strike had been crushed, the right of affiliation was banned. Labor long resented this provision and repealed it shortly after coming into office.

The fact that in the United States civil service unions have affiliation with both the A.F. of L. and the C.I.O. and have never been involved in industrial strikes suggests that the British ban was unnecessary. But the ban demonstrated the

strong feeling against any action by civil servants which might disrupt or disturb the processes of government. By far the most satisfactory device for giving government employees, through their unions, a direct share in determining their conditions of work is the Whitley Councils, a device proposed originally for private industry but used largely only by the government, which has placed major dependence upon the Councils since 1919.

*Whitley Councils.* A Whitley Council is a joint negotiation board composed of members of the higher civil service and representatives of civil service unions who meet together without an outside chairman. Similar in this respect to the employer-employee joint committees of private industry, the Whitley Councils are more than merely advisory. In fact, they are the normal channel for consideration of all questions affecting employment in the civil service.

Organized on every level of the civil service, Whitley Councils act on problems appropriate to their various spheres. The National Whitley Council handles problems of general policy. About seventy autonomous councils operate on the department level. And in some cases there are also district and local Whitley Councils.

In every Whitley Council "official" and "staff" sides are represented equally. As the joint considerations are not expected to end with a decision reached by majority vote but with a general agreement acceptable to both sides, there is a great deal of discussion and mutual exchange of views. To a surprising degree agreement has been found possible, though "staff" is generally more satisfied with the working of the Departmental than the National Councils.

The *National Whitley Council* consists of 54 members, of whom the 27 "official" members are appointed by the Chancellor of the Exchequer (evidence of Treasury control) and the 27 "staff" members include leading officials of various Civil Service Associations, many of whom are professional full-time trade union workers. The National Council is supposed to lay down the general principles governing conditions of service, e.g., recruitment, hours, promotion, discipline, tenure, remuneration, and superannuation; to encourage further education and training in administration; to improve or-

ganization and work; and to propose legislation affecting the conditions of civil servants.

One reason the work of the National Whitley Council has been unsatisfactory from the "staff" point of view is that its general meetings, four times a year, are too large and too infrequent to handle business successfully. On the other hand, some real achievements have been made by the joint committees into which the National Council is broken up for continuous study of questions. Some of the most important reports on which changes in the civil service have been based (including a fundamental reorganization in 1919, and the conditions of recruitment in the reconstruction period after World War II) have been drafted by the National Council. Nonetheless, many staff members feel that they have too little influence on decisions at the national level. This complaint is hardly surprising, for the minister is ultimately responsible for policy and organization within his department, and the official members of the National Whitley Council can meet the demands of the staff only within the limits laid down by the Treasury and the ministers. Since consultation with both always takes place before decisions are reached, a public recommendation by the National Whitley Council means in fact a policy already approved by the Cabinet.

The *Departmental Councils*, which are more active than the National Council, deal with the same questions as does the National Council, but in a more immediate and practical way. Where the National Council considers *principles* affecting discipline or promotion, the Departmental Whitley Council will consider a *particular case* in which a penalty has been imposed for breach of a rule. There are also Departmental Promotion Boards to deal with the promotions of lower grades of civil servants, but while staff associations can appear before them on behalf of individuals, there is no direct representation of the staff upon them as there is on the Whitley Councils.

Whitley Councils have much to commend them. They regularize contacts between higher and lower civil servants and provide for frank exchange of views; they help employees to see the purpose of the rules (they have been particularly helpful in convincing the staff of the value of the new training programs); and they

help employers to understand better the effect of what they do. The Councils cannot go so far as to provide for joint management of the ministries, for ministries are not only business enterprises but also political aids. But they can do a great deal to fit rules to individual situations and to stimulate good relations. In general, staff members have been satisfied with the results of this continuous consultation with their superior officers and have responded in a responsible spirit to the opportunities for a direct share in settling specific issues.

The Whitley Council technique is also customary for industrial employees of the ministries. Every ministry with a large number of industrial employees, like the Board of Trade, has a *Joint Industrial Council* which deals with any matters outside of wages and trade questions. Welfare provisions, interpretation of regulations, and so forth, are common topics for joint consideration. Though there is provision in their constitutions for taking a vote, there is no record that a vote has been necessary in recent years, since it has always been possible to reach a general agreement. There are also three Trade Joint Councils—one for shipbuilding, one for engineering, and one for miscellaneous trades—which consider questions from a general point of view and, like the Departmental Industrial Councils, are made up of both official and staff representatives, the former always including one representative appointed by the Minister of Labor and National Service.

As far as wages and salaries are concerned, the government has long committed itself to the principle of arbitration, in case agreement cannot be reached between the staff and the Treasury. For industrial personnel, disputes are referred to the Industrial Court, which is made up of an independent chairman and two other members appointed by the Minister of Labor to represent the government and the staff, respectively. Nonindustrial personnel can refer disputes to the Civil Service Arbitration Tribunal, which is made up in a similar manner. Decisions of these courts are considered binding and can be overridden only by Parliament. Thus one of the most likely causes of friction between the government and staff can be referred to a court of reference which, unlike the Whitley Councils, stands higher than either.

### *Staffing the New Agencies*

Since government has entered the fields of industry and business it has faced new problems in selecting and managing personnel. Civil service tests are designed particularly for general administrators, but much of the work of public corporations is technical in character. Public corporations, therefore, have undertaken their own staffing but have not developed any fixed standards for doing so.

Faced with a similar problem of selecting personnel, the T.V.A. decided not to use the facilities of the United States Civil Service Commission, but it did establish an excellent merit system of its own. So far no British public corporation has taken a comparable step; as a result, certain problems have been created which may become serious as public ownership assumes a larger place in the country's economy. Thus there are no formal safeguards against patronage, though the very fact that many of the positions must be filled by people with technical qualifications helps to avoid this danger. Secondly, lack of recognized standards makes more difficult a potentially beneficial interchange of personnel between civil service and public corporations. Thirdly (and this has been the most serious complaint), public corporations can pay higher salaries for comparable work than the civil service; in fact, they set their salary scales by those of private industry rather than by those current in the civil service.

Those who support full freedom for public corporations in securing their own staffs argue that government must adopt not only a business form when it enters the field of private enterprise but also business standards. But whether institutions committed to public service can ignore the pressures which have forced other government bodies to accept merit systems remains to be seen.

### UNIONS IN NATIONALIZED INDUSTRIES

The new nationalized industries also face particular problems in employer-employee relations. Workers in nationalized industries continue to be represented by the same unions which had represented them in their dealings with private employers. The government, however, is in a far stronger position than any private

employer, particularly where the government is virtually the only employer, as in the coal mines; accordingly, some of the smaller unions have feared that the government might impose a "closed shop"—that is, grant exclusive bargaining privileges to a single union and compel all workers in the industry to join that union or give up their jobs. Some substance was given this fear by a decision of the London Passenger Transport Board in August 1946, granting a closed shop to the Transport and General Workers' Union, and thereby making it impossible for members of the smaller Union of National Passenger Workers to keep their jobs. Such a ruling, applied to an entire nationalized industry, might completely destroy certain unions. Moreover, the connection between many unions and the Labor Party means that power to force government workers to join specific unions is, indirectly, a power to force them to support the Labor Party.

In the fall of 1946 the General Council of the Trades Union Congress announced, however, that it had no intention of pushing for the closed shop at the expense of unions not affiliated with it. But it did demand that workers in government-owned industries belong to some union but not necessarily to a single union. The Labor government itself, in November 1946, announced its opposition to legislation which would designate a single union as the bargaining agent for an agency; but at the same time it recognized the greater ease and simplicity of negotiations carried on with a single union instead of several.

The unions themselves have faced a new problem as the result of government ownership. In the past many restrictive practices (such as limiting the production of any one worker and requiring the employment of a minimum number of workers on certain types of jobs) were adopted as ways of preventing men from being overworked and exploited by their employers and as methods of increasing employment. But now that the government is the employer, the restrictions on production, instead of hurting an individual employer, hurt the community as a whole. Certain labor leaders have already urged workers to change their earlier outlook, identify their interests with those of the community, increase individual production, and drop their old

methods of "spreading the work around." But the habits of many years are hard to change; it is still far from certain that the ordinary worker in a nationalized industry is convinced of his duty to work harder simply because there has been a change in the form of ownership, or because he has been told, for example, that "the mines are his."

### *How Satisfactory Is the Civil Service?*

Although the British may criticize their civil service, they will rush to its defense if other people attack it. On the whole, it commands respect and possesses far higher prestige than the American civil service. The average member of the administrative class is neither a "philosopher king" nor a daring innovator, but he is competent, wide awake, and responsible. He enters the service through tests which place a major emphasis on clear, logical thinking and expression, and on ability to view situations objectively. In the service he works on important problems during most of his life. Moreover, he is schooled throughout his career in its professional ethics, according to which he must put public interest above personal advantage.

The civil servant is expressly forbidden to put himself in a position where duty and interests conflict. "The public expects a standard of integrity in conduct not only inflexible but fastidious," stated a report of 1928. In practice, therefore, he must not use any information gained through his work to improve his personal position or to make money. The Permanent Secretary of the Air Ministry was dismissed in 1936 for using his knowledge of public negotiations for his own private advantage, a rare example of violation of the primary rule of the civil service code.

In recent years there has been some concern over the number of members of the administrative class who have resigned to take positions in private industry, carrying with them, of course, the specialized knowledge they had acquired within the service. However, the drain from public to private employment does not begin to parallel that in the American service, where the higher members of the income tax department, for example, are under constant inducement to take private positions with the very

firms whose accounts they have been scrutinizing. This use of public experience for private advantage cannot be guarded against entirely, but better salaries in the public service are one answer; in 1945 all British civil service pay levels were raised. A top ranking civil servant now receives a salary of £4,500 a year, not as high as an American in a comparable position, but relatively good compared to other British earnings. Loss of pensions on resignation has also acted as a strong deterrent to mass transfers.

The second major rule in the civil service code of ethics is the ban on direct political activity. "The step from the civil service politician to the politicized civil servant is but a short one," a Royal Commission warned. Though other elements of the code are embodied in Treasury minutes or departmental codes or enshrined in custom, this prohibition is embodied in legislative acts.

As the number of civil servants increases, however, there is increasing concern over the extent to which a large and exceptionally intelligent part of the electorate is prevented from making its contribution to political discussion. It would, of course, be wrong for civil servants to use information which they acquire through their work as a weapon against the Government of the day; and it would be impossible for a minister to work with men who were actively and openly his political opponents. But it is harder to see why an employee of the health service should be prevented from stating his views on foreign policy or local government issues, and some "staff" groups have already appealed to the Cabinet to reconsider the breadth of restrictions on the political rights of civil servants. In particular, they suggest that all those below a certain level in the civil service should be given full political rights. This carries the more weight because in a semi-collectivized society, it is conceivable that the rule against political activity would deprive a large part of the electorate of the freedom of political speech and action which are essential to a healthy democracy.

It is less these rules, however, than the general attitude of the service which provides its distinctive stamp. When the President's Committee on Administrative Management in the United States recommended in 1937 that Presi-

dents should have more executive assistants, it wrote that these aides should have "a passion for anonymity." Most higher civil servants in Great Britain possess this quality. They serve without thought of particular gain (though they have comfortable salaries) and they have a high sense of responsibility.

This high sense of responsibility leads one to consider another question: Can public servants give to the government that measure of whole-hearted devotion and zeal which is essential to meeting the overwhelming tasks of today if they do not have the same view of problems and needs as that which animates the political authors of policy?

This question, raised by J. Donald Kingsley in *Representative Bureaucracy*, has particular significance in Great Britain at the present time, because the traditional laissez-faire philosophy of the middle-class state has given way at so many points to the demands for a planned economy. Mr. Kingsley points out that, in the past, higher civil servants had the same general attitude toward the problems of government as had the majority of the Members of Parliament. They came from the same upper middle-class group. They had similar education, attended the same clubs, had the same approach to current issues. It was for this reason, he feels, that Parliament and Cabinet accepted so calmly the great increase in the duties, and therefore the powers, of the civil service. They could expect that these powers would be exercised in the same spirit as they, themselves, would adopt.

Today, though the basis of power in British politics is shifting from the upper middle class to the lower middle and working classes, the higher civil service is still drawn largely from the traditional group. And Mr. Kingsley questions whether this group is able to represent the new points of views. Yet there may also be danger in too great a stress on "representativeness." Few people question the fact that old-line colonial administrators, for example, are not well qualified to administer the new colonial policies designed to train the natives for self-government. Almost no one would deny that the higher civil service should be recruited from as wide a range of talent as possible which means making higher education, the route to

recruitment for the administrative class, accessible to all who have the ability to make use of it. But to maintain that the higher civil service should be drawn from a particular class in society (e.g., the working, or lower middle, class because these make up the majority of the people in Great Britain), would be to fall into the error of economic determinism, that is, that people's attitudes are irrevocably determined by the strata of society into which they are born. In practice, the energy and vision with which British civil servants as a whole threw themselves into Labor's plans for development (plans for which, in some instances, they themselves had long been pressing) suggests a breadth of training and capacity for change which is one of the best justifications for the present methods of recruitment.

A further, and somewhat more serious, problem arises when, as it is doing increasingly, government enters the field of business. Government employees must then take on many business responsibilities, and the proper handling of those responsibilities requires qualities different from those of the general administrator. It is true as a general rule that successful businessmen prove too individualistic and competitive to make satisfactory civil servants. It is probably equally true that the means of selection and of training used by the present British civil service only rarely produce men with the energy, insight, and practical experience necessary to direct large-scale economic activity.

Part of the answer to this problem lies in making a separation between administrative work of the traditional type and the new responsibilities in social and economic affairs. Such a separation has led to the establishment of public corporations, like the National Coal Board (see p. 145), to handle specific responsibilities in a particular field. But, as indicated, these bodies have not yet worked out a system of selecting personnel which is as satisfactory for current needs as traditional methods were for the needs of an earlier day.

No one can deny that the demands on a modern public service are very great. Traditionally, public servants are expected to be efficient, impartial, and responsible. But increasingly new

social and economic tasks require qualities of initiative, insight, and economic acumen. The war demonstrated that all too few civil servants in Great Britain possessed these qualities, and it was sometimes necessary to call on men who had made their reputations in private business to direct the work of ministries. In the future, the civil service will need "men of 'push and go,'" to quote Mr. Kingsley, "energetic innovators and hard-driving managers." The planning state will need more experienced experts and more men who do things. It will need to put more emphasis on in-service training and on flexibility in transfer and promotion. It will need more flexible personnel procedures. None of these needs is new, but the trend toward gov-

ernment planning and increased administrative responsibilities heightens their urgency.

To replace "neutral" administrators by active, vigorous officials means that the civil service will have still more influence in the life of the community. This is the inevitable result of increased government activity which, in turn, is the inevitable result of popular demands for social welfare. What is important is to develop personnel in the civil service adequate to the demands put upon it. The ideal public servant should combine the standards of intellect and ethics, for which the British civil service has long been famous, with the sense for public opinion and for economic and social realities of the best of statesmen and businessmen.

## CHAPTER 7

# British Local Government

Few people realize how much the health of democracy depends upon the nature of local government. The French historian Alexis de Tocqueville, who wrote a classic work on American democracy, could note, more than a century ago, that "a nation may establish a free government, but without municipal institutions, it cannot have the spirit of liberty." His observation still has considerable force. If political activity were limited to passing judgment once every four or five years on the record of the government, citizenship would be essentially passive. The healthiest democracy is one in which citizens take an active part, not only in discussing but in managing their affairs. And it is in local government that the citizen can most easily hold office and acquire political experience—experience which improves his competence in national as well as in local matters. The ordinary citizen knows much more about the shortcomings of the local park system or schools or water supply than he does about the foreign policy to be followed toward Yugoslavia or Egypt; and he can understand the remedies much more easily than he can follow the numerous and complex problems of national policy which burden Parliament. Thus there is less dependence upon a party leader, and in a society in which the individual feels increasingly helpless to understand or cope with great economic and social forces, a strengthening of the spirit of self-reliance.

If local government is important as an education in democracy, it is also important in mitigating the danger to democracy involved in overcentralization. In an age when government activity is constantly increasing, it would be an almost intolerable burden for an already overworked national government to have to concern

itself with local problems as well. It has enough to do without troubling over garbage disposal in Little Middlington or the fire-fighting equipment of East Grinstead. In addition, the national government cannot possibly understand local needs and conditions so well as the people who live in the locality and enjoy or suffer the consequences of government action. In this sense, then, local government relieves a strain which could well prove fatal to democratic government.

Local self-government is also important as a counterbalance to central control. In Continental countries local government is organized under the Minister of the Interior (see p. 346). This means, among other things, that the police are subject to the orders of officials who are appointed by the central government. This is why Nazi control of the Prussian and Reich Ministries of the Interior enabled them to dominate Germany (pp. 629, 632). It explains the bitter struggles in other European countries for control of this particular ministry. For the Ministry of the Interior has its grip upon local governments throughout the country. It is the center of a network of tentacles which can fasten on the life of a whole nation.

In countries in which local government is run by locally elected representatives, there is a healthy check to such a development. The police are under local control. The local councils, if they have substantial functions and strong popular support, can be counted on to resist centralizing tendencies. Local autonomy is the most effective counterpoise to a too dominant central government.

Local autonomy was established early in England and Wales,<sup>1</sup> but local self-government is

<sup>1</sup> There are slight, although not essential, variations in



relatively recent. From the time of the Tudors, Justices of the Peace, appointed by the Crown and selected from the local gentry, exercised a benevolent direction as judges, legislators, and executives in county areas, while local oligarchies ruled in the ancient but antiquated boroughs or towns. The dominance of both groups was not undercut until the nineteenth century when the Industrial Revolution and the resulting increase in governmental activities laid responsibilities on local areas which they were obviously incapable of handling. The first shift in authority, however, was to a series of boards and commissioners, established one by one as local areas assumed new tasks in regard to public health, highways, public assistance to the poor, and elementary education. Since each of the new authorities was usually provided with a new set of areas within which to carry out its work, England and Wales became covered by a bewildering network of sanitary districts, poor law districts, conservation districts, and so forth, whose boundaries rarely coincided. Only through a series of Local Government Acts, extending to 1894, was order brought out of this chaos. As a parallel development, governing power was transferred gradually to elected councils, first in the boroughs or towns (1835), then in the counties and the newly created county boroughs or cities (1888), and finally in the subdivisions of the counties, the districts and parishes (1894). Thus by the end of the nineteenth century, local self-government had been established as the rule throughout England and Wales.

## I. THE RELATION BETWEEN THE NATIONAL AND LOCAL GOVERNMENTS

Local self-government is still cherished in Great Britain but it is becoming more and more difficult to speak of a separate sphere of local action clearly set off from national government. Certain services once looked on as purely local

have steadily taken on more national significance. The local school is part of a national educational system; public assistance is no longer a community task but a national responsibility; even gas and electricity, once characteristically municipal services, have now been nationalized.

Facilitating the rapidity of this change is the fact that in Great Britain there is no constitutional division of powers such as that existing between the national and state governments in the United States. There are only two levels of government in Great Britain—national and local—instead of the three levels of government in the United States—national, state, and local. And the British Parliament has authority over both the organization and the powers of local governments in the same way as American state governments have authority over the local governments, like cities and counties, within their boundaries. It is true that there is no more chance that England and Wales would wipe out local self-government by legislative action than that this would take place in Massachusetts. But the degree to which, since World War II, local authorities have been turned into agencies for the administration of nationally organized programs does not provide much hope that they can be effective partners in carrying the responsibilities of government.

### *Division of Work Between National and Local Government*

In any case, successful partnerships are usually based on relative equality in authority and functions, and there is no such equality between British national and local governments. The powers of local governments are defined by national statutes, and local authorities always operate within restricted limits. The courts are often called on to rule whether or not a particular act is justified by the terms of the grant of power to a local authority; and the fear of being *ultra vires*, that is, outside the bounds of legally granted authority, haunts most local administrators.

Moreover, when local government provides services which are part of a national program (e.g., in education), its powers must receive additional confirmation from the relevant national department before they can be exercised. Local

the forms of local government in Scotland and Northern Ireland. The institutions described in this chapter are those of England and Wales.

bylaws and certain programs are often subject to check by national officials. Some local officials, like the medical health officer and school teachers, must meet national standards of competence. This close check results from the fact that ministers are responsible for the way in which programs in their fields are carried out on the local as well as the national level.

But we have not yet covered the whole story of national-local relationships. Local governments not only administer certain national programs at the local level but they also undertake particular projects selected by their own governing bodies. Certain duties and necessary powers in fields like public health, education, and public welfare are laid on all local authorities of a certain rank by general legislation, but there are other powers, embodied in Adoptive Acts (e.g., authority to run markets, municipal theaters, public libraries), of which local governments may avail themselves by going through a special legal procedure. Cities and counties may also provide unusual services, requiring additional powers not customarily granted local governments, if they can secure a Local or Private Act. By these means local government units may undertake a number of activities over and above the prescribed minimum. Moreover, in regard to a national program of public works or schools, a local authority may always raise its standards of achievement beyond those required.

How this relationship works in particular situations may be seen from the experience with housing. The national government develops the general housing program, determining whether special emphasis should be laid on new construction, or on repairs, or on slum clearance. It passes an act under which local authorities must fulfill certain goals in their areas. It establishes the standards to which houses must conform. It offers a subsidy for every house built in the area by local authorities. It sends inspectors to see how housing developments are proceeding and whether they conform to national standards. But apart from this, local authorities are responsible. They must raise a portion of the money to meet the minimum demands of the national government. They may in addition decide upon a more extensive program, both in the number of houses built and their size and quality. They must employ the workmen, secure materials,

and determine, in consultation with national authorities, how to meet public health standards and provide recreation facilities. Thus on their energy and imagination depends much of the success of the program.

### *Sharing the Costs of Local Services*

The sharing of responsibility extends also to finances, though here, too, the national government is increasingly assuming the dominant role. The basic revenue for all local services used to come from local sources in the form of *rates*. Rates are taxes levied on occupied property (including land, buildings, and houses) in proportion to the annual rental value of the property, and the name comes from ratio to assessment, the basis on which they are determined. Today rates meet only about one-third of local government expenditures; a further proportion comes from license fees, rental of municipal property, and so forth. The central government, however, now subsidizes local services through grants-in-aid and Exchequer Equalization Grants, which together amount to more than one-half the money spent on the local level.

*Grants-in-aid* serve the double purpose of assisting local efforts and of maintaining adherence to nationally imposed standards, since they are granted on condition that the local authorities meet certain minimum standards in their services. This is also a common practice in the United States, where the federal government provides grants-in-aid to the state governments for such projects as highways and social security. In England and Wales grants-in-aid have helped to maintain national standards for police, roads, public health, public assistance, education, and so forth. Grants-in-aid cover a major proportion of local costs in some fields, usually 50 per cent of the cost of local police forces, for example, and, depending on the character of the work, varying from 20 to 75 per cent of the cost of roads.

Grants-in-aid serve to stimulate local initiative since the national contribution increases as the basic local expenditure goes up. But such aid is of relatively little comfort to a poor community whose "rateable" value is very low and which can, in consequence, barely support minimum standards. In fact, the system of determining

local taxes (or rates) by the value of the property in a particular area may actually penalize poor districts for their poverty since if the total value of property in one district is \$10,000,000 and in another \$1,000,000, the latter would need to levy rates ten times as high to raise the same amount of money, and the very poverty of its inhabitants might make such services all the more necessary. It is this fact which has led to the second means by which the central government contributes to local services: the *Exchequer Equalization Grant*, which is designed to aid poor areas in proportion to their poverty.

A similar purpose also underlay the earlier Block Grants, established in 1929, whose size was determined in relation to certain specific statistics, such as the number of unemployed in an area and the number of children under five; but the Exchequer Equalization Grants, which began in 1948, are specifically designed to raise the financial resources of all counties and county boroughs to a common basic minimum. Any local authority now receives one of these grants if its rateable value in relation to its expenses falls below the average for the country at large. At the same time, the valuation of rating has been taken away from the local authorities and vested in the Board of Inland Revenue so that uniform standards of rating are established throughout the country.

Since the new national equalization grants are provided on the basis of need, in contrast to the grants-in-aid which give incentive to and means of control of local activities, some observers feel that they may ultimately weaken the sense of responsibility of local communities. One suggestion for avoiding this danger is to earmark the Exchequer Equalization Grants for the local management of the national social welfare programs which are designed to establish a basic standard of living in Great Britain, and to have locally raised money go directly into locally inspired programs, e.g., for libraries or concerts, or for school equipment above the required standards. In this way, the local community could see more directly the results of its own effort than at present, when locally and nationally raised funds go into a common account.

Even so, will not the heavy proportion of money provided by the central government for

local services, and the increase in the number of programs organized nationally, take the "self" out of local self-government? That the British are worried about this possibility is evidenced by the stream of books and articles on the subject. At least, the issue is not yet a closed one. It remains true that the British central government never undertakes the conduct of local affairs through its own agents, as is characteristic of French local government, but only reviews the way in which locally elected bodies conduct local affairs. Moreover, the British believe that their type of executive supervision of local affairs provides more flexibility than the American practice of outlining in detail in state legislation the way in which those local units which do not have "home rule" should carry out their state-determined responsibilities. Americans, on the other hand, are likely to feel that the freedom of their local units from the supervision of state officials provides more real self-government than the British system.

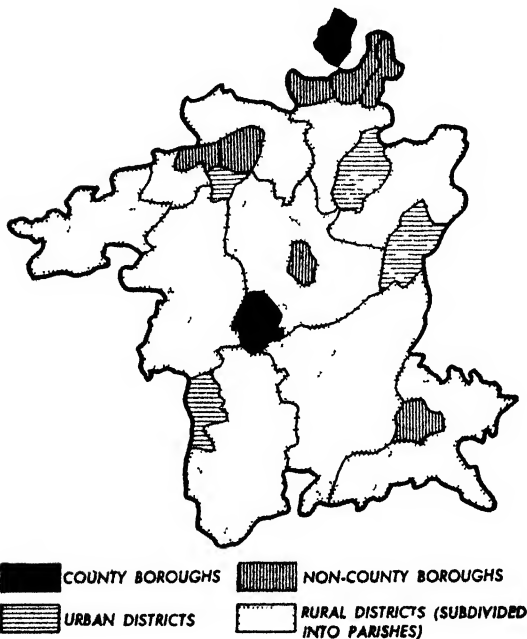
Whether English local self-government can maintain its reality depends, however, not only on the attitude of national organs and national officials but also on the way in which local communities are organized to carry on their work. This means that the areas within which services are organized must be suitable in size for modern conditions: large enough to handle the service efficiently and small enough to maintain community interest. It means that there must be lively popular participation in selecting the local councils and watching their activities. Local governments, to be successful, must have officials who are alert and imaginative enough to see the needs which their areas can meet and to adapt their traditional institutions and procedures to these needs. In other words, if local government is to maintain its position, it must be efficient enough to carry out its duties and have a firm basis in community interest and support, as well as have power enough to do what it wants to do.

## II. THE UNITS OF LOCAL GOVERNMENT

Both efficiency and community interest depend far more on the size and functions of the

units of local government than is generally realized. Local government units are the geographical areas within which services are organized and for which locally elected councils are responsible. In the days when travel was slow and infrequent, there were advantages to having many small units. But with the advent of good roads and fast cars, making it possible for the

### LOCAL GOVERNMENT AREAS IN THE COUNTY OF WORCESTERSHIRE



villagers of Little Middlington to shop or go to the movies in their county seat, it has become feasible to group administrative services into larger areas. Accordingly, there are many anachronisms among the thousands of separate local government authorities, of six different types, into which England and Wales are still divided today.

The customary basis for distinction between local government areas is the density of population within them. The chief units in England and Wales are the sixty-two *administrative counties* (which are often, although not always, identical in area with historical counties like Devon and Hampshire) and the eighty-three *county boroughs*, which are populous urban

areas and are independent of the administrative counties in which they are located. All the important cities in England and Wales (except London, which has special arrangements) are county boroughs.

The county borough is a "one-tier" authority exercising all the powers of local government in its area. But the administrative county is a "two-tier" authority, sharing the powers and functions of local government in its area with its subdivisions: the municipal districts or *non-county boroughs*, the *urban districts*, and the *rural districts*, which are in turn subdivided into *parishes*. The non-county borough is almost but not quite on the same level of authority as the administrative county, the urban district is more definitely subordinate, and the rural districts are still further down the scale. The parishes (which number about 11,000, as compared with something over 1,500 other local government units in England and Wales) have little political or even social importance, and many people feel that a more satisfactory unit could be developed out of combining the parishes, which are too small, with the rural districts, which are too large to command much popular interest.

This unit pattern of English local government may seem somewhat confusing, but it is more uniform than that existing in the United States and provides for a sharper distinction between cities and counties. All American states are divided into counties, and in all except Virginia cities are integral parts of the counties within which they are located. The exact relationship between American cities and counties varies from place to place. So does the relation between counties and their subdivisions: the township (or in New England, the town) and the village. In general, both American and English local government units are too numerous; they are better suited to the older rural conditions for which they were originally designed than for modern industrial and urban conditions.

### Shifts in Local Government Functions and Areas

In both countries some of the problems of outdated administrative units have been modified by shifts in functions, boundaries, and status.

American cities and English county boroughs have assumed increasingly important responsibilities. The tendency in both countries to shift powers from smaller to larger units is particularly marked in England. The police service, originally a function of the parish, is now primarily a county responsibility; and there have been similar developments in public assistance and education.

This expansion of county functions in England has served to stimulate the efforts of non-county boroughs and urban districts to acquire higher status and eventually free themselves from the administrative county. As long as they remain subdivisions of the county, these units have to share with the county the money they collect in rates, though they are independent in organizing such services as are in their jurisdiction, e.g., public health, housing, sewerage, and water supply. County boroughs, in contrast, keep all the money they collect and administer all the services in their area.

The efforts of non-county boroughs to acquire county borough status (originally intended for municipalities of 50,000 or more inhabitants) have led to a great deal of lobbying in Parliament, the only body which can make the decision. The administrative county usually opposes the change in order not to lose the revenue from one of its more industrialized areas, and the struggle is often bitter. But the time is past for such piecemeal adjustments, made too often on political grounds. A comprehensive revision of all English local government units is long overdue, as was pointed out by the Local Government Boundary Commission, which was set up in 1945 but unfortunately disbanded four years later without any action on its recommendations. When revision of the units is finally made, it should be undertaken on the basis of two criteria: efficient handling of the services, particularly social welfare, for which local government is now responsible; and the maintenance of community interest in and support of the services undertaken. This may well mean establishing new regional divisions of considerable size and including both rural and urban areas, and then subdividing them into units as small as is consonant with efficiency so that they have a substantial base in community feeling.

### **Co-ordinating Devices in Local Government**

Even with a substantial revision of local government units, however, it may not be possible to make them equally suitable for all functions of local government. The most efficient organization for water supply will cover a wider area than the most efficient organization for fire protection. Urban and rural areas are often interdependent, and so are administrative counties and county boroughs. Epidemics and the migrant unemployed do not stop at administrative boundary lines. This problem has already been faced and has led to special devices for co-operation in matters affecting more than one unit of local government.

The American answer to this problem has often been to establish new authorities or super-authorities to carry out particular functions like water supply, sewerage, port administration, parks, bridges, or regional planning. The British, with unhappy memories of the maze of jurisdictions of the nineteenth century, have preferred (except in the London area) to use the device of joint boards which have no independent authority of their own but serve as co-ordinating devices. Port Health Authorities, Vagrancy Committees, and Joint Water Boards are only a few of the bodies set up in recent years to make possible the handling of certain work on a larger scale than present administrative units provide. The special feature of this approach is that the members of the joint boards are representatives of the councils for the areas which are co-operating, and that the boards provide a means of co-ordinating the work of the councils rather than a means of by-passing or overruling them.

### **III. THE COUNCILS**

The council is the organ of self-government in every unit of English local government no matter what its size may be, or whether it is rural or urban. Though it is sometimes called a local "parliament," the council has both executive and legislative powers, deciding matters of policy, passing ordinances, fixing the budget, considering the way in which policies should

be carried out in detail, and choosing the permanent officials who run the local services. The competence of council members and the closeness of their relationship to the community are decisive, therefore, for carrying on vigorous and effective local activities.

Because of the dominant position of this single organ, the council, there is far less variety in the structure of local governments in England than in the United States, where there are wide differences in the form of county and municipal governments and between different types of municipal government. The major differences between English local government units are in the means of selecting the members of the council. The qualifications for franchise in all local government elections have been similar to those for parliamentary elections since 1945, though formerly it was necessary to own property or be a tenant to have a vote in local areas.

### Council Membership

The lesser units—the urban and rural districts and the parishes—select all the members of their councils for three-year terms by direct elections held through electoral districts. The larger units—the county boroughs, the administrative counties, and the non-county boroughs—select only three-quarters of the members of their councils, the *councillors*, by direct elections in wards, which usually elect three members each. The remaining fourth of the members of these councils, the *aldermen*, are chosen (or, to use a more technical term, co-opted) by the councillors themselves. Not only are aldermen appointed rather than elected; they serve for six-year terms, whereas councillors serve for three years. In the administrative counties the councillors are all elected at the same time, once in three years; in the boroughs (county and non-county) one-third of the councillors are elected every year. In both units one-half of the aldermen are chosen every three years. Thus in the larger local government units there is never a complete change of council membership at one time.

The English practice of co-opting a certain proportion of the members of a council finds no parallel in the United States. But the English endorse the practice because the longer terms of the aldermen provide continuity in the work

of the council and because the indirect method of election makes it possible to have on the council men of special qualifications who might hesitate to run for office. In practice, however, councillors are more likely to choose the aldermen from among their own retired or retiring members, giving the office as a reward for long service on the council or for useful party work. When a councillor is thus elevated to the office of alderman, a new election is held in his ward to fill his place among the councillors.

### Council Structure

The most striking difference between American and English practices is that in neither county nor municipal governments in England is there any separation of powers such as is so common in American city government. Though American counties are generally run by a board with both executive and legislative powers, American municipalities have imitated the national constitution by separating the executive and the legislature. Moreover, the general trend has been towards putting more power in the hands of the executive, whether he is directly elected as mayor or selected by the council as city manager or business head.

In England the presiding officer of the council has no separate executive authority. He is chosen for one year by the council, generally from among its own members. Re-election is possible but infrequent. In the boroughs the executive officer is called the mayor (in certain historic cities, the Lord Mayor); in the administrative counties he is called the chairman. And the latter name more nearly suggests his functions. It is true that when a dynamic personality becomes mayor, he can provide substantial leadership by devoting time and energy to the work of local government. He is *ex officio* member of every committee and can thus keep in touch with all the work of the council. He represents the community on ceremonial occasions and in a city like Oxford can use ancient pageantry to awaken interest in the affairs of the town. Moreover, in some cities, like Birmingham and Manchester, more than one mayor has devoted not only his time but also his wealth to advancing the work of the municipality. But such exam-

ples are rare. Usually little more is made of the office than its obvious duties suggest.

### **Parties and Elections**

The one point at which the local community controls local government is through the election of councillors. Accordingly, it might be expected that local government elections would awaken great interest, but until very recently this has not been so. One reason was that, long after they lost their governing powers on a national scale, the county gentry continued to dominate county government. Even today the "big house" may have an undue influence in the parishes. And while the gentry have never had great influence in the cities, the problem there has been to find other sources of leadership. Much less than 50 per cent of the voters usually exercised their franchise in municipal elections prior to World War II, and only 5 per cent of the voters participated in some county elections during the 1930's, indicating less interest than in comparable American elections. Moreover, a great many candidates were returned unopposed because of difficulty in finding people to contest the seats. Only recently has there been a widespread resurgence of interest in local elections caused in the main by more vigorous participation of national parties in local campaigns.

National parties have long played a role in local elections, particularly in the cities, and have looked on local contests as a good means of keeping party organizations alert between national elections. But national issues and local issues seemed far apart, and national party lines were often not reflected in local elections. For instance, on the local level Conservatives often called themselves "Ratepayers" or "Municipal Reformers," while the Liberals usually adopted the name "Progressives." For a long time Labor found it difficult to gain control in local areas, though it scored notable successes in London after World War I. Labor was handicapped by the property qualification for voting (which was not changed till 1945, when the franchise for local elections was placed on the same basis as that for national elections), the lack of pay or even traveling expenses for councillors, and the practice of holding council meetings in the daytime. Not surprisingly, Labor generally tries to

hold meetings in the evening and to place traveling expenses on the council budget when it gains control of a council.

Since 1945 local elections have taken on more of the character of miniature national elections. Labor and Conservatives have worked hard to gain control of local councils, both to demonstrate their political strength throughout the country and to consolidate their influence in the organs which administer many national programs. "Local authorities, being the indispensable partners of the central government, and the local administrators of much of its legislation, can make or mar Labor's plans for the reconstruction of Britain," declared the Labor Party's *Local Government Handbook* in 1946; and the Conservatives pointed to their successes in the local elections of 1949 as evidence that they were undercutting Labor's hold on the electorate. Both parties, in fact, seek to interpret trends in political opinion from the results of local elections just as they do from by-elections.

Some people regret this domination of local elections by national political parties avowedly seeking to strengthen their national positions, and fear that it will lessen interest in strictly local problems. But since local and national programs are so closely interrelated in England, the participation of the same parties in both spheres may provide useful co-ordination of efforts and a spur to further activity. One immediate result of lively party campaigns has been an increase in voting and in the number of candidates willing to stand for office. A more reliable test of its long-range effects will be the caliber of the councillors and the imagination and vigor they bring to their work.

### **The Council at Work**

Once the councils are elected, party politics are less dominant than in the national sphere, though Labor claims there is more drive behind programs for social welfare, recreation centers, and housing when it controls a council than when the Conservatives do so. But while the general outline of a local program may be determined by the council as a whole, most council work is administrative and is carried out by committees. The committee system has proved necessary because the councils themselves are



often too large to act effectively as executive agencies, since they generally have twenty to thirty members, and in some cases more than a hundred. It is obviously more satisfactory to deal with fields like public health, welfare, parks, or finance in smaller bodies. The national government requires the establishment of certain committees; others are set up in accordance with local needs and desires.

The committees function wherever local government has responsibilities. They inspect schools and hire teachers, work on plans for parks and roads and sewerage systems, or discuss specifications for the units in new housing developments. Sometimes people who are not themselves members of the council are co-opted for committee work because of special qualifications, and at all times the committees work intimately with members of the permanent administrative staff. The result is that members of the council acquire a practical experience in governmental problems and administrative work for which Members of Parliament have no equivalent. It is sometimes said, in fact, that an apprenticeship in local government, such as many Labor members and some Conservatives like Neville Chamberlain have had, is the best preparation for a parliamentary career.

It is often charged that the council does what the committees tell it to do and that the committees do what the local government officials tell them to do. And indeed, the very fact that so much of local government work is administrative leads to great dependence on the advice of the experts of the local civil service. Sometimes, however, the concern of the councillors with picayune details handicaps the efficient execution of services. Moreover, unless the council is very vigorous or has an unusually good mayor or chairman, there is danger that the over-all picture of local activities will be obscured by the concentration of the committees on their own particular specialties. American cities are less likely than English county boroughs to be affected by this problem because the elected mayor or the appointed city manager provides general leadership. An English local government must usually depend for co-ordination on its Finance Committee (like the Treasury in national affairs) and all too often leaves the work of reconciling different programs to

permanent officials, in particular the town or county clerk, who may not always be well equipped for the task.

#### IV. LOCAL GOVERNMENT OFFICIALS

In any case, because of the predominantly administrative work of local government, a great deal of responsibility necessarily rests on local officials. Their work is often supervised or inspected by national officials, but they carry out all local programs and usually organize them. Yet, though they have the influence which experts always acquire in technical work, all local government officials are directly responsible to local councils, which employ and pay them, and do so quite independently except in so far as they must adhere to national standards, e.g., for teachers. Local government authorities employ more than a million people (more in normal times than the national government), about one-quarter of them acting as teachers and over 100,000 doing administrative, technical, and clerical work. Much of the importance and independence of local governments, in their day-to-day working with the national government, arises from this control of their own officials.

On the whole, the highest local officials are of outstanding ability, partly because the national government has established standards for most professional positions and partly because of the high professional ideals maintained by the National Association of Local Government Officers, a voluntary organization with steadily increasing influence. In contrast to the general practice in the national administration (p. 151), the permanent heads of departments in local governments are chosen because of their special training in health, housing, road building, and so forth, and are trained doctors, engineers, or other experts, not general administrators. Some observers consider this unfortunate, believing that technical experts should act as advisers and that general administrators should be recruited from the universities, as is done in the national government. But there are others who feel that local government could teach the national government a good deal about the administrative usefulness of the expert.

At least there is general self-congratulation

that the English local government service escaped the "spoils system" which has haunted so many American cities and counties. Nor have there been experiments in electing local government officials, and thus there has been no counterweight to the authority of the council. In fact, English government officials, on the whole, are loyal to their councils to a fault, even when their own farsighted plans are crippled by too parsimonious councillors.

The major problems in local government service are found at the lower levels. Emphasis upon professional qualifications for high officials means that opportunities for promotion from lower (and less specialized) levels are even more restricted than in the national civil service. In addition, local councils often try to balance the cost of hiring well-trained professional men by employing inadequately trained people in lower positions. Until after World War II, junior clerks were sometimes brought into the service at immature age and without good records in secondary education. Training plans were lacking. Only recently have Whitley Councils (see p. 156) become common at every level of local government service. Thus there is still much to be done to develop the uniformly high standards in the service on which the excellence of local government programs must depend.

## V. THE GOVERNMENT OF LONDON

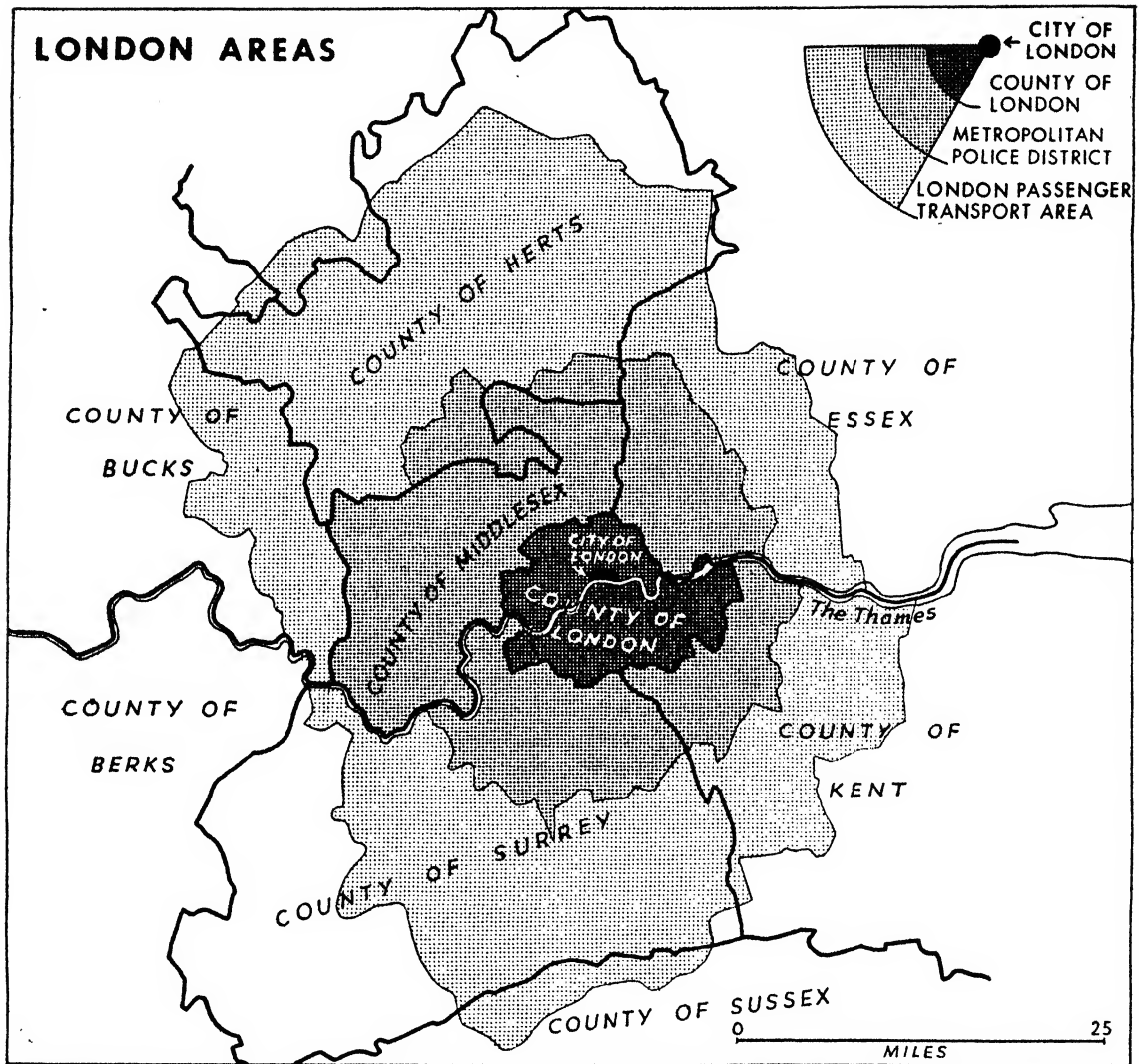
London is the largest capital city and, with the possible exception of New York, the greatest metropolitan area in the world. Far more than is true of any American city, it is the center of English life. Judicial, financial, commercial, and cultural institutions are centered there. Moreover, it is the largest manufacturing city in Great Britain and the largest port in the world. Nearly nine million people, almost one-fifth of the population of Great Britain, live within Greater London (as defined by the metropolitan and city police districts), and many more are affected directly by developments in that area.

There is nothing surprising about special governmental arrangements for a capital city. What is surprising about the government of London is the fact that its structure is so far out of relation to current needs. London has been com-

paratively untouched by the series of reforms in urban government which began in 1835. Today it faces serious problems in the administering and financing of essential services.

Unlike other cities in England and Wales, London does not have a centralized administrative structure. It still has the administrative structure characteristic of rural government: an administrative county (see p. 166). Its main representative body is called the *London County Council* whose 150 members are responsible for overseeing the administrative services of London. Further, contrary to the organization of other English cities, the Administrative County of London is subdivided into 28 *metropolitan boroughs*, each with its own council and functions. These boroughs have much more autonomy than the usual subdivisions of administrative counties, and this independence creates problems in developing a well co-ordinated general policy. There is, however, a special body to aid co-ordination: The Metropolitan Boroughs Standing Joint Committee, which meets monthly to discuss matters of common borough interest and to make representations to the London County Council and to the national ministries. Also, many London County Council members sit on borough councils, and there is fairly close contact between the officials of the boroughs, the London County Council, and the ministries.

The area managed by the London County Council is not officially called a city because that name has historically been pre-empted by a square mile of territory in the very center of London; this territory alone is called the City of London. It contains, in fact, the greatest concentration of wealth in Great Britain, including the Bank of England, the Stock Exchange, and Lloyd's, the world-famous insurance center. The City receives certain administrative services from the County Council of the Administrative County of London. But the City itself administers the parks, bridges, and markets (including the famous Billingsgate Market) which it owns, and has its own police. It is governed by the Common Council of the City, which has altered little in constitution since the year 1384. In practice, the Council is controlled by an oligarchy, representative of the livery companies of goldsmiths, and others, which were once the mer-



chant companies of early English history, but now are voluntary associations of well-to-do persons.

The separate position of the City stems from a long line of charters extending back to 1070. It is reflected in the pageantry of the Lord Mayor's show, in the special position of its "freemen," who alone have the right to claim the title of "citizens of London," and in the colorful ceremonies in which national figures, like Winston Churchill, are given the "freedom" of the City. Even the King does not enter the City without formal notification and a ceremonial admission. But it seems an anachronism that one of the

great modern cities of the world should leave the control of its richest section in the hands of a virtually self-perpetuating oligarchy. Moreover, it is a serious handicap to the London County Council to be unable to draw extensively on the resources of this area to help finance services for other parts of London.

In another direction, the London County Council is also seriously limited in jurisdiction. Though its general jurisdiction extends over an area of 116 square miles, which appears large enough on paper, this area no longer fits modern conditions. Beyond the boundaries within which the County Council exercises administrative au-

thority lives fully half the population of Greater London. Over a million of these people daily commute to work within the area of the administrative county. But they pay no taxes for the services which they receive in this area.

It has been found necessary to establish *ad hoc* authorities, similar to those in many American states, for traffic, police, drainage, electricity, and so forth, because none of these services can be organized successfully within the area covered by the London Administrative County. The metropolitan and city police districts cover 692 square miles of territory, commonly known as Greater London. But some of the authorities cover areas three or four times larger. The authorities operate almost independently because of the lack of a general co-ordinating government.

One of the most unfortunate features resulting from the limited administrative boundaries of the London County Council is that the Council is restricted in planning for developments which would make London a more habitable city. Expansion of population outside county limits has been largely unplanned either in terms of recreation facilities, like parks and "green belts," or of highways. The County Council has

been permitted to establish some housing projects outside its area, but much more systematic planning is needed. Some of this is now being provided by the new Ministry of Town and Country Planning, but many of the mistakes of the past will have to be undone before new developments can be undertaken.

One of the most satisfactory proposals for reforming London's administrative structure involves establishing a single authority with jurisdiction over an area considerably larger than that of Greater London as at present defined. It might well include all areas from which there is extensive daily commuting. Subdivisions would be necessary, but such smaller units should have autonomy only in fields which do not need large-scale administration. Such a rearrangement would sweep away the separate status of the City, and some might mourn this as flouting tradition. But the reformation should be interpreted, rather, as transferring to Londoners as a whole the prestige now possessed by the relatively few "citizens" of the City. It might also mean an increase in public interest in the government of London, which here as elsewhere is the key to satisfactory self-government.

## CHAPTER 8

# The Law and the Courts of Great Britain

### I. ENGLISH COMMON LAW

The traditional association of law and liberty is so intimate that, particularly in Anglo-Saxon countries, what is called "the rule of law" is looked on as the essence of free government. According to this concept, every individual in the community has certain rights which should not be infringed either by other individuals or by government officials, and there are independent courts to which he may appeal if there is any interference with these rights. "The rule of law" means too that if an individual is accused of failing to do his duty or of committing an injustice, he cannot be punished until after a public hearing in the courts and a formal verdict against him based on a certain and known body of law.

Certain additional features of "the rule of law" are equally important as safeguards of individual liberty. Thus "the rule of law" (sometimes spoken of as "government under law") implies that the powers of the government can be extended or changed only through regular and accepted political processes which result in publicly known legislation. This is particularly important at a time when government is assuming so many new responsibilities which directly affect the community, for otherwise people might be punished under rules of which they were unaware, as was true in Nazi Germany and is still true in the Soviet Union. In Anglo-Saxon countries the rights and duties of the government and the relations between the government and private individuals within the state are defined in what is called *public law*. Because the powers of government are defined, government officials are limited to those actions

for which they have specific authority, and a private individual can check any particular action by asking the courts to determine whether it is justified by the provisions of the law under which the official is acting.

The law (which may be defined broadly as a known body of rules related to general principles which the courts uphold and enforce) and independent, impartial courts are as important in ordinary social relations within the community as they are in preventing arbitrary action by the government and its agents. By defining individual rights and duties, the law removes uncertainties regarding the rules governing daily conduct and renders unnecessary recourse to violence to settle disputes. When law is concerned with the relations between private persons (e.g., husband and wife, parent and child) and with questions relating to private property or to one's own person (such as contracts, trespass, and torts, the last of which comprises wrongs like slander, deceit, and assault) it is known as *private law*.

Most of private law falls into the category of *civil law*,<sup>1</sup> which concerns itself with the rights of individuals looked on merely as individuals. In civil law individuals have to take the responsibility for bringing cases before the courts. But if there is a very serious violation of the rights of one individual by another, the case comes under *criminal law*, which is public law and for which the government assumes responsibility. The acts with which criminal law is concerned are those considered to be a threat to public

<sup>1</sup> The term "civil law" is also used in quite a different sense to distinguish jurisprudence based on Roman sources from the jurisprudence of Anglo-American countries which has its roots in common law. For the former, see Chapter 8 in the sections on France and Germany.

order, and therefore the responsibility of the whole community. While trespass, for example, is a civil offense because it affects only the person whose property has been interfered with, murder is a criminal offense because it robs the community of one of its members and, by example, threatens the security of others. There are also many other acts, not bad in the sense of threatening the security of the community but in the sense that they violate certain standards established by the government (e.g., maximum hours of work, safety conditions in factories, and so forth), which the government prosecutes under criminal law.

The exact content and relationship of the different bodies of law change and develop with changing conditions. Otherwise they would put society in a strait jacket. The economic and social needs of society have been affected so vastly by industrialization, for example, that what was once considered to be a subject which only affected individuals as individuals (e.g., child labor) has become a matter of concern to society as a whole. Moreover, as some individual rights are curtailed (e.g., of employers to determine the conditions of work for their employees), new rights, like the right to benefits under social security, are extended.

Ideally, therefore, the law should meet two criteria. It should be *certain and precise* so that it provides known standards for action. At the same time, it should be *flexible* enough to meet new conditions.

The peculiar pride of the Anglo-American legal system lies in its ability to combine a high degree of certainty as to legal rules with striking adaptability to changing conditions. This characteristic has been demonstrated in the long continuity of the English common law, extending over eight hundred years. During this time the English have developed a national system of law characterized by a complex interweaving of written statutes and unwritten custom and precedent. And the adaptability of this system of law has been demonstrated not only in England but, under different conditions, in all the English-speaking countries. While the United States diverged sharply from English practices in establishing its political institutions, the American legal system was built directly on English legal rules, practices, and institutions. And though

American law and courts have developed their own distinctive features, it is still true that precedents are exchanged across the Atlantic.

### *The Strands of English Law*

The characteristic features of the English common law system were molded by experience and can scarcely be understood apart from their historical development. The legal system of England and Wales,<sup>2</sup> though well-integrated, is made up of three separate strands: *common law*, *equity*, and *statute law*. A judge may well draw on all three in making his decision in a particular case. And though he will differentiate among them in so doing, he will not suggest that they are not part of a single system of law. Yet historically, common law, equity, and statute law have both separate roots and functions.

Common law and equity are often spoken of as "unwritten law" because they developed out of the decisions of judges; statute law is "written law" made by the legislative process. We are inclined to think that all law is "written law" but in fact the "unwritten" common law and equity were not only the first to develop historically but in many fields are still the most fundamental. If all legislation in England and the United States were suddenly declared null and void, there would still be a body of common law and equity on which to depend, though the rules and remedies would in large part be strange and archaic. If, on the other hand, common law and equity were suddenly swept away, the basic foundation in both countries for the rules governing such subjects as contracts, wills, trespass, or libel would be missing except in so far as the rules in these fields have been embodied in legislation.

### THE COMMON LAW

The common law developed in the first centuries after the Norman Conquest. Previously, there had been local courts administering the local customs which had been handed down for generations. But in the twelfth century, as

<sup>2</sup> Scotland and Northern Ireland have their own legal rules and institutions which differ in part from those of England and Wales. Scottish law, in particular, has been more strongly affected by Roman law than has English law.

a measure for centralizing authority, the King sent out traveling judges who listened to cases in the local courts and applied the customs which they found in different places. Gradually, by the process of unification, they forged a law which became "common" to the whole realm and was used in deciding the cases which came before the new royal courts at Westminster.

The judges who tried to assemble and reconcile the rules customarily applied in different parts of the country had to use their own knowledge and judgment, as well as the customs they found, in their discussions of how to make the law uniform. In theory they were "discovering" the law, which had always existed; in practice they were exercising a wide range of discretion in their selection of the rules which should be applied in the future. In this sense, therefore, it is true to say that the common law was "judge-made law," or "found in the bosom of judges," as an old Latin phrase expressed it.

This means of making the law uniform ended about the middle of the thirteenth century. At that time, the great exposition of the common law by Henry of Bracton, himself a judge, marked the conclusion of its formative period. The common law was now looked on as a "complete" law, i.e., judges were expected to be able to draw decisions in all kinds of cases from it. Thereafter, the common law developed through the decisions of the central courts at Westminster.

The common law was both stable and adaptable. Stability resulted from an early enforcement of the rule of precedent, or *stare decisis*. According to this rule, once a decision had been reached by a superior court in a particular kind of case all other cases of a similar kind had to be decided according to the same rule. No new principles were to be introduced which could not be deduced from earlier cases. But complete rigidity was avoided by the fact that every case had individual features and that there might be a number of precedents on which judges could draw in making their decisions.

Nonetheless, after the formation of the common law was completed, it became sufficiently inflexible as to give rise to serious complaints. Despite its "completeness," there were in fact "gaps," or cases for which it could provide no remedy. Sometimes there were manifest injustices

because of strict adherence to precedent. Moreover, the relations of feudalism were beginning to give place to a moneyed economy. To provide remedies for deficiencies in the common law, there developed the second strand in English law: equity.

#### EQUITY

Equity was rooted not in custom but in conscience. It was based on the belief that law should correspond to the moral standards of the community. When the common law courts did not provide "equity" in the sense of a just redress of grievances, it was possible to appeal from the King's Courts to the King himself. Such appeals were referred to the Chancellor, "the keeper of the King's conscience," who after investigation could issue a special writ ordering the person against whom the complaint was made to perform the act necessary to secure justice.

Equity could provide remedies where the common law could only impose penalties. For instance, equity could force performance of a contract when common law could only give damages for its breach. Moreover, equity through an injunction, could prevent the commission of an act which would be damaging to property. If a house were to be destroyed to make place for a road, the Chancellor, like a modern court, could issue a writ under equity to prevent the action until its necessity had been investigated. Common law, in contrast, could only award damages if the destruction of the house were found to have been unnecessary.

Another characteristic and important provision of equity was the "trust." Under common law, property transferred to another person became his, even though he might be supposed to use it for the benefit of a third person, for example, the infant child of the original owner. Under equity the Chancellor could not take away the right of ownership from the person to whom the property had been transferred, but he could order that person to use it for the purpose for which it had been given to him, i.e., for the benefit of the child. Thus equity did not abolish rights which existed under common law but insisted that they be used in a just or "equitable" way. This notion of a trust was capable of many applications. In the form of settlements



under wills or of charitable organizations or of industrial combinations the trust has been a central institution of English and American law of property.

Common law and equity have many similarities. Both were shaped by judges to fit the needs of the period in which they were formed. But those needs differed. Common law provided a basic system of law which conserved local customs but shaped them in terms of the new centralized royal authority. Equity supplemented its rules by drawing on some of the general principles of Roman law and on what one authority has called "the practice of the 'good citizen,' i.e., the really upright and conscientious person." Equity was thus complementary to the common law and never pretended to the "completeness" of common law. But gradually equity, too, became a system bound by precedent. In the eighteenth century, a great Chancellor declared that the doctrines of equity "ought to be as well settled and made as uniform almost as those of the Common Law."

#### STATUTE LAW

The third strand in English law is "written" or statute law, that is, legislation passed by Parliament or any one of the subordinate bodies to which Parliament has delegated law-making powers. This is by far the largest source of law in modern times. Until the nineteenth century, however, almost all private law, as well as almost all criminal law, was common law or equity. Even when much of the criminal law was embodied in statutes in the nineteenth century, together with much of the law governing trusts, partnerships, bills of exchange, and sale of goods and lands, their basis still remained common law. In the fields of private and criminal law, statute law, like equity, is supplementary to common law.

There is a major difference, however, in the relation between common law and equity and between common law and statute law. Equity does not contradict common law but mitigates it or meets its deficiencies. Statute law overrides common law. In fact, the main reason for statute law in the field of private law is to alter rules which have been established by judicial decision but which no longer fit community standards (e.g., the relations of parent and child).

In case of a conflict between statute and common law, statute is always upheld.

Compared to the long, slow process of change in "unwritten law," statutes offer an easy and speedy means of changing the law. They substitute the legislator for the judge. Why then have statutes not entirely replaced the "unwritten law"? And what is meant by saying that England and the United States have "common law" systems despite the vast volume of legislation placed on the statute books of both countries each year?

#### *The Characteristics of the Common Law System*

One characteristic feature of the "common law" system is, as suggested, that fundamental principles are generally embodied in unwritten law and the exceptions are in written law, instead of vice versa. Codification of the law has taken place in some fields so that the general principles are embodied in statutes. In such instances the unwritten law fills in the gaps. But frequently even the codification of the general principles and rules in a given field merely reiterates principles of common law or equity or openly builds on them.

Another characteristic feature of the "common law" system is often spoken of as *case law*. In case law judicial principles are worked out by the judges in the course of deciding cases, and the opinions they give in support of their decisions become authoritative sources of reference for subsequent cases. Thus a judge places his chief dependence in interpreting a statute or a rule of common law on the opinions given in deciding previous cases of a similar kind, particularly those cases settled in higher courts.

#### DO THE JUDGES MAKE LAW?

But does this not mean, in fact, that the judges are making law through their decisions, not merely interpreting it? In other words, are they not usurping a function which should belong in modern democratic states to the elected representatives of the people?

This is a long disputed question. In a classic statement Blackstone, a great English jurist,

maintained that the judges are "the depository of the laws; the living oracles . . . who are bound by an oath to decide according to the law of the land. Their knowledge of that law is derived from experience and study." The legal reformer and utilitarian, Bentham, was caustic about such a view. He maintained that the judges created the principles on which their decisions were based after a case had occurred. "When your dog does anything you want to break him of," he declared, "you wait till he does it, and then beat him for it. This is the way you make laws for your dog; and this is the way the judges make laws for you and me."

Somewhere between these two extremes, however, a reasonable middle ground appears. Since English or American judges are never permitted to base their legal reasoning on logical speculation alone, they cannot create law in the sense of legislation. What happens, as Professor Geldart says in *Elements of English Law*, is that "By a process of deduction, by argument from analogy, the existing principles may be made to yield a new principle, which is new because never explicitly stated before, but which in another sense is not new because it was already involved in what was already acknowledged."

#### SHOULD ENGLISH LAW BE CODIFIED?

But would it not be surer and more satisfactory for Parliament to put all the rules of common law and equity into statutes, thereby organizing them into unified and systematic statements of the law? This would involve formulating the law in codes. A code is a special kind of statute which attempts to state the whole law on the subject with which it deals. Thus if English or American law were codified, the basic principles in all fields of law would be embodied in statutes instead of in common law or equity rules.

One good reason why such a drastic step has not been taken in either England or the United States is that the need has not seemed sufficiently pressing. In countries like France and Germany, which had a vast variety of local customs as late as the eighteenth or (in the case of the latter) nineteenth century, it was necessary to supersede customs by uniform codified rules. But England has had eight centuries of unified national

law; and the United States inherited the basic fabric of its law from England.<sup>8</sup>

Under present conditions, there are only two reasons which might lead Englishmen or Americans to undertake a large-scale codification of law: to make law easier for the judges to handle, or to bring it more abreast of modern social purposes.

On the first point there is relatively little to say. All English and most American judges are drawn from senior lawyers who have had long experience, while preparing cases, in working with the law reports and the systematic digests of judicial decisions. Codification would do little to help them.

The second point is perhaps more serious. Codification makes it necessary to overhaul a branch of the law thoroughly, to weed out inconsistencies, and to reconsider basic principles in relation to current needs. The basic principles of common law are undeniably individualistic in their emphasis. The particular purpose of common law historically was to make clear the relations between persons, and between citizens and the royal authority. Common law was shaped by the independent attitude of Puritanism, by the seventeenth-century contests between the Stuart kings and the great common law judges like Sir Edward Coke (who strove to keep customary rules superior to arbitrary royal will), and by eighteenth-century political ideas of the rights of man. Thus common law principles customarily support individual rights, including the rights of property. Are these compatible with the steady increase in economic and social responsibilities which marks our highly industrialized societies?

Perhaps the soundest judgment on this question is that advanced by the great American lawyer and teacher, Roscoe Pound, in *An Introduction to the Philosophy of Law*. He points out that we need to make a distinction between the fields where "the social interest in the general security is the controlling element" and those involving "the weighing of human conduct and passing upon its moral aspect." The former he

<sup>8</sup> Some people believe, however, that the United States might usefully codify its common law, which has been developed along somewhat different lines in different states. Not all American states, however, have a common law basis and the law of Louisiana in particular is based on the civil law of the continent referred to in footnote 1 of this chapter.

feels to be suitable for legislation and even codification because the public interest is so strong; the latter he believes should be left to the judges since, as he states, "the certainty attained by mechanical application of fixed rules to human conduct has always been illusory."

This distinction is capable of broad application. As the sphere of public interest widens, it may well be necessary in England and the United States to restate basic principles of law in relevant fields through statutes—to engage, perhaps, in codification to ensure a basic uniformity. If so, this process will have to be undertaken with the recognition that revision may soon be necessary again. In the fields of private relations the slower but constant development of case law is more suitable. Further, the background of eight centuries of experience in adjusting law to changing conditions may well equip judges to fit new legislation into the general pattern of English law better than Parliament could do. If this is so, the role of courts and judges will not differ materially in the future from what it has been in the past.

## II. JUDGES, JURIES, AND OFFICIALS

No one can overlook the importance of the judge in the English common law system, both for the development of the law and for the protection of individual liberty. Courts are judges sitting in their official capacities to consider and pass judgment in particular cases which have been referred to them. On the judges' knowledge, judgment, integrity, and independence depends the quality of the legal decisions which not only settle particular cases but also decide precedents for the future.

One of the great struggles for individual liberty in England centered upon the independence of the judiciary. The royal courts were originally set up by order of the King, but they quickly acquired a large measure of autonomy. Nonetheless, since the judges were appointed and dismissed at royal pleasure, the King possessed powerful weapons if he wished to bend the administration of justice to his purposes. Moreover, the King was the ultimate "fount of justice," and Stuart kings maintained that this gave them the

right to override the customary rules of law. As great a Lord Chancellor as Francis Bacon declared that judges should be "lions under the throne." But the judges of the seventeenth century resisted royal efforts to make their decisions serve royal purposes, and the Act of Settlement, 1701, put the judiciary beyond fear of government pressure. Accordingly, English judges, though appointed by the government, came to hold office for life or until retirement, in the same way as do American federal judges.<sup>4</sup>

In addition to safeguarding the independence of their judiciary, the English put a high premium on specialized legal knowledge and experience. All English judges are drawn from the legal profession so that, unlike the Continental system in which judges and lawyers belong to two separate, though similar, professions, English judges have a long background as practicing members of the Bar. Americans, too, draw their judges mainly from the legal profession; but in England there is a further restriction on the selection of judges which is unknown in the United States: English judges must come from that part of the legal profession whose members are known as barristers.

### *The Legal Profession*

The distinctive feature of the English legal profession<sup>5</sup> is that it is divided into two distinct groups: solicitors and barristers. In so far as this division finds a parallel in the United States, it is in the distinction between the office lawyer who prepares cases and the court lawyer who argues them. But in England the distinction is so great that solicitors and barristers receive their credentials from their own separate societies and cannot perform each other's functions.

The *solicitor*, the office lawyer who is consulted by a client, gains his training through

<sup>4</sup> Most American states, in contrast to the British system of appointment, select the judges for the state judiciaries through direct election or election by the legislature. One argument in support of election is that the practice of judicial review gives the judges a political function, and that therefore they should be kept responsive to public opinion. It is generally acknowledged, however, that the caliber of elected judges is less high than that of appointed judges.

<sup>5</sup> There are slight, though not essential, differences in Scotland and Northern Ireland which make it advisable to describe the personnel of the judicial system in terms of England and Wales.

being articled to a practicing solicitor and does not necessarily have any university training. He must, however, take a series of examinations of both a general and highly specialized character and, if successful, he is admitted to the Law Society, an incorporated body which maintains the standards of the profession. As a member of the Law Society, the solicitor may practice (that is, prepare cases) in both higher and lower courts. He becomes an officer of the court in which he is practicing and has his fees established by law. But the solicitor is allowed to plead cases only in the local civil and criminal courts. The right of "audience," or pleading cases in the higher courts, is reserved for the barristers who, in turn, have the monopoly of judicial appointments.

A *barrister* is a member of one of the four Inns of Court, which are historic, self-governing, voluntary organizations which, though not possessing charters or written grants of power, combine the functions of a law school and a professional association, and acting together form the Bar. The Inns of Court provide a corporate life for their members in historic buildings, containing chapels, libraries, dining halls, and rooms for work and study. They train those who wish to enter the profession, test them through examinations, and decide whether they shall be admitted to "the Bar." A barrister remains under the jurisdiction of his particular Inn throughout his professional career and must maintain the professional standards of the Bar at all times on penalty of being "disbarred" from practice.

Once a member of the profession, the barrister is ready to undertake cases, though he must often wait a long time before he secures a lucrative practice, since he has no direct relations with a client and must depend, therefore, on the work which a solicitor gives him. Barristers specialize in particular classes of cases, and once they become well known they may earn great sums of money since, unlike the solicitors, there are no limitations on their fees.

There are two ranks of barristers: "juniors" and King's Counsellors. The latter, who are appointed by the Crown from among distinguished barristers, cannot appear in a case without a "junior" and are limited by rules to certain types of work, chiefly pleading in open court; but they are well recompensed by receiving fees double those of the ordinary barrister.

It has been said that "under the robe of every barrister is the powdered white wig of a judge." At least there is a close fraternity between the Bar and the Bench. Every English judge has had experience pleading in the courts as a barrister; for appointment to important judgeships such as the High Court of Justice or Court of Appeal he may need at least fifteen years of such experience.

### *The Qualities of the Judiciary*

Drawing the English judiciary solely from among barristers has had certain consequences. For one thing, it has meant that English judges combine great ability and experience in interpreting the law with high standards of personal integrity. No suspicion of corruption touches even the lower levels of the judiciary, and much of the innate respect for the law in England comes from the distinguished service of generations of judges.

At the same time, judges have traditionally been drawn from the wealthy and privileged classes of society; as a result the judicial system in England is occasionally stigmatized as a class system. Since young barristers often have difficulty in earning enough to support themselves in their early years of practice, few have entered the profession unless they had some outside support. But once they start earning, successful barristers earn some of the largest incomes in England. Thus the barrister is likely to belong to a well-to-do family and to have acquired large personal means and social prestige before he is invited to become a judge.

Further, since many barristers are reluctant to give up their court pleading until they have passed the height of their productive powers, judges, upon appointment, are often elderly; they are rarely appointed before fifty, and the average age of higher court judges is about sixty-five. Judges of the local civil courts retire at seventy-two, but there is no retirement age for judges of the central courts. H. J. Laski has said that "judges are frequently old men who have lost touch with the ideas of a new generation," and at least it is questionable whether barristers who have long argued cases on behalf of corporations and employers are likely to be very

sympathetic to social and labor legislation. There may be some truth in the statement that "All English judges are impartial but not all have the power of divesting themselves of their prejudices."

Some socialists in England long maintained that so long as English judges were drawn from "the ruling class," labor must expect to find that the courts, far from protecting their liberties, were actually conniving against them. But it is noteworthy that such accusations have faded away. There seem to be as many young Labor as Conservative barristers. Nor have the courts attempted to block any of Labor's measures. Experience tends to show that the "class" character of the English judiciary is far less marked now than it used to be and that the high standards of the judges ensure fair treatment for all groups in the community.

### *The Justices of the Peace*

At one place in the English judicial system professional judges give way to "amateurs," the Justices of the Peace. The Justices staff the local courts of criminal jurisdiction and are selected from among the local inhabitants of a district without reference to any previous experience or training; they are not paid for their work. The Justices of the Peace were originally the King's agents in maintaining peace in the counties and were usually drawn from "the gentry." Though their responsibilities are now limited to minor criminal cases, there is still considerable prestige in England to having J.P. after one's name (it is sometimes called the "poor man's knighthood"), and appointment is often influenced by both social and political position.

Throughout England and Wales there are now more than 13,000 male and 3,000 female Justices of the Peace, a striking contrast in numbers to the 100 judges who staff the rest of the country's courts. Because younger people can rarely afford to give so much time without pay, most of the Justices of the Peace are elderly, though they can no longer act after 75; many of them are out of sympathy with modern social trends. Moreover, it is often charged that their lack of judicial training makes them depend too much on the testimony of the local police and the knowledge

of the court clerk (who, unlike the Justice, must have had some legal training). But there are also advantages to the system. The use of so many unpaid officials keeps the costs of criminal jurisdiction low.<sup>6</sup> In the small cases with which they are mainly concerned, the local knowledge of the Justices may enable them to impose particularly appropriate penalties or to temper justice with mercy. Perhaps the best feature of the system is that it strengthens the tradition that justice belongs to the people and is their responsibility.

### *The Jury*

In most English trials today a judge or two or more Justices of the Peace in a Court of Petty Sessions (p. 188) act alone in reaching a verdict. But in many civil and criminal cases a jury may be used, and in all serious criminal cases a jury must be used. The jury is the lay and amateur element in the judicial process (apart from the Justices of the Peace) through which the ordinary good sense of average untrained persons complements the professional experience of the judge. Traditionally, one of the most important rights of an Englishman or American is trial by his peers. Taken together with the writ of habeas corpus, under which a person accused of a crime must be brought to trial within a limited period of time or released, the right to demand jury trial has long been looked on in Anglo-Saxon countries as a basic safeguard of individual liberty.

There have traditionally been two kinds of jury in Anglo-Saxon countries: the *grand jury*, which is an accusing or indicting body, and the *petty jury*, which is a verdict-rendering body. The grand jury is used only when a defendant in a criminal case is about to be put on trial before a petty jury. The grand jury is presented with the facts with which the prosecution will press its charge and determines whether or not there is sufficient evidence to proceed with the trial. If the majority of its members (it usually consists of between twelve and twenty-three

<sup>6</sup> In the County of London and a few large cities, there are Stipendiary Magistrates analogous to the Police Magistrates found in every American city, but there seems little demand to replace the Justices of the Peace by a wider use of paid magistrates.

members) agrees that there is sufficient evidence, the grand jury approves the indictment with the words "true bill"; if not, it rejects the indictment and the defendant is then freed from trial.

The petty jury (called "ordinary jury" in civil cases) consists of "twelve good men and true" whose duty is to determine the facts in the case on the basis of the evidence presented to them through witnesses, and to reach a unanimous verdict of "guilty" or "not guilty." In making up its mind, the jury receives much help from the judge who sums up the evidence in his charge to the jury, explaining obscure points, high-lighting the significant questions affecting the final decision, and instructing them as to the law governing particular points. The jury is supposed, however, to reach its own, independent conclusion: guilty or not guilty. Sometimes in place of a general verdict on the innocence or guilt of the defendant, the jury is asked for a special verdict on particular questions of fact, and the responsibility for the general verdict then rests upon the judge. In all cases, however, the judge decides the actual sentence.

In England the grand jury, which is still used quite often in the United States, was abolished by statute in 1933. And though the petty jury is still invariably used in trials of the most serious criminal offenses, it is employed infrequently in other types of cases—less frequently, in fact, than in the United States, where there is also a trend toward trials without juries. One reason for using juries less frequently is that both countries have increasingly come to feel that the function which a jury can best perform is to provide a sample of public opinion. The jury is presented with facts about which its members are supposed to have no prior knowledge. Though originally juries gave evidence on matters they knew intimately (see p. 18), today, the common sense and judgment of jurors are the only tools they have for determining which of the facts presented to them is correct. Naturally such a group is able to deal more adequately with situations of common experience than with matters involving expert testimony, like the valuation of property. Thus the jury is most useful when standards of public morality are involved, as in cases of libel, desertion of

family, or murder, and its use is most common in England in cases of this type.

The expense of jury trial in civil cases, where the litigants must pay the jury's fees as well as anticipate an extended process, has also contributed to a steady decline in the use of juries in England. In 1936 the local civil courts had only 7 jury trials out of 28,221 cases. Of the cases in all civil courts, less than 5 per cent used jury trials, a much smaller percentage than in American courts. More surprising is the relatively small use of jury trial in the less serious criminal cases where the defendant is offered the alternative between trial by jury and trial by a judge or Justices of the Peace alone. In 1938 only about 1 per cent of the nearly 800,000 people found guilty of various criminal offenses in England had jury trial, though nearly 80,000 of them had committed offenses for which they could have demanded jury trial. More recent statistics bear out the same point.

Another reason, besides expense, for the reduced popularity of jury trial in England has been the practice of drawing the members of juries from those who own property or pay rent amounting to about £10 a year. While the amount is not high, it seems in practice to have restricted jury service to a relatively small and well-to-do portion of the population. In 1935 a ward in Cambridge which had 5,000 parliamentary electors had only 187 names on the Jurors Book. Even more striking was the high property qualification for Special Jurors (of whom there was only one in the Cambridge ward cited) who, until the practice was abolished in 1947, were used in civil cases involving large sums of money. Not surprisingly, the feeling that property qualifications for jurors makes them sympathetic to established interests works against the use of jury trial by the poor. Thus while jury service in England retains its prestige and is undertaken with a feeling of responsibility and of seriousness which is not nearly so common in many parts of the United States, where frequently the well-to-do try to avoid jury service or treat it lightly, the trend away from jury trials is apparent. In consequence, the judges and Justices of the Peace in England carry an increasingly large share of the administration of justice.

### *The Judicial Administrative System*

While English judges have a very large degree of independence in running the courts and are far from being subject to the control of a central administrative department like the Ministry of Justice in France, there are two important political figures, the Lord Chancellor and the Secretary of State for Home Affairs, who have, to a considerable degree, authority to ensure a smoothly working judicial system through their power to make appointments, draft rules, direct cases from one court to another, and maintain general supervision of all court business. The more important of these two from the point of view of the courts is the Lord Chancellor, and it is indicative of the strong feeling in Great Britain that the courts should be directed by legal experts that the Lord Chancellor is always chosen from among distinguished senior barristers who have become King's Counsellors.

No one person in the United States combines so many judicial offices and functions as does the Lord Chancellor. He is appointed by the Prime Minister and stays in office only so long as the government remains in power. During that time, however, the Lord Chancellor acts in a number of high judicial capacities (e.g., as President of the Court of Appeals for civil cases), presides over the House of Lords, and maintains general supervision of the whole court system.

One of the most striking features of the Lord Chancellor's position is his power to appoint all the Justices of the Peace, all County Court justices, and all judges of the central courts, except for two Prime Ministerial appointments: the Lord Chief Justice and the Master of the Rolls, the latter of whom historically ranked second to the Lord Chancellor and since 1838 has had custody of the records of the Appeal Court. (Since judges usually remain in the same post to which they are originally appointed, the Lord Chancellor is not concerned with promotions.) In addition he has supervision over all the administrative officials who do the non-judicial work of the courts. All this is done without the aid of a ministry, although some critics believe the Chancellor could handle his responsibilities more efficiently if he had one.

That a political official and member of the

Cabinet, the Lord Chancellor, is the head of a judicial system which prides itself on its independence gives rise to criticism from time to time. Yet the Lord Chancellor's influence on the working of the court system can easily be exaggerated. Most of the judges have life tenure (County Court judges may be dismissed, but this is very rare), most of the administrative officials hold office under civil service rulings, and most of the court rules are traditional. Some people believe the Lord Chancellor is mainly important as "a symbol of popular control." But he also provides a co-ordinating element in the court structure which helps to keep it efficient, up-to-date, and abreast of its work.

The Home Office also has some connection with the judicial system, mainly through its supervision of the police and its concern with some aspects of criminal justice (see p. 139). The Home Secretary advises on the appointment of the London Police Magistrates and most of the Stipendiary Magistrates, as we have seen; he also appoints the Director of Public Prosecutions, decides whether political prosecutions should take place, and recommends pardons.

As compared with the United States, England has a relatively small staff for instituting public prosecutions and representing the executive in the courts. The Attorney-General and his chief assistant, the Solicitor-General, who give legal advice to ministries and represent the Crown in cases in which its interests are concerned, are members of the House of Commons and do not have a department comparable to the American Department of Justice. Nor is there any real parallel in England to the American offices of federal and state district attorney.

Under most circumstances, prosecutions in criminal cases in England and Wales are instituted by individuals, and the investigations are undertaken by the police. There is, however, the Director of Public Prosecutions who may direct the prosecution in serious murder cases or offenses against the coinage or election laws, and who always acts in any case where it is felt that the public interest might not be upheld adequately without his intervention. In 1937 he undertook only 550 prosecutions, of which 61 concerned nonindictable offenses and 489, indictable offenses, a very small percentage of the 85,017 indictable offenses prosecuted during that



year. But the example provided by the Director of Public Prosecutions has far-reaching influence on all prosecutions in the country. The small number of public prosecutions in criminal cases which take place in England probably would be inadequate to the vast law-enforcement task facing both the federal and state governments in the United States; yet the work of the Director of Public Prosecutions, combined with a large number of private prosecutions, appears to meet English needs effectively. To depend so greatly on private prosecutions for law enforcement requires, of course, the active initiative and sense of responsibility of private persons, and so far these have been adequate to the demands put upon them.

### III. THE COURTS

The central institutions of the judicial system are the courts. Courts can only decide cases which are brought before them either by a private individual or public officer, for no matter how unjust a situation may be, the courts have no means of interfering unless a specific complaint is filed. But the character and accessibility of the courts have a good deal to do with the frequency with which they are used. If justice is to be easily available to all people, there must be local courts as well as national, their procedures must not be too technical, and the cost must be within the reach of persons of average means.

A century ago the English court system<sup>7</sup> was a bewildering collection of separate courts. The royal central courts had been superimposed on the local courts. Different sets of courts administered common law and equity, and there was a constant struggle between the systems and within them to acquire cases and thus the fees which litigants paid. Conflicts of jurisdiction were frequent, and the litigant who made a mistake about the court in which to start his case might find himself forced to begin all over again in another court after a long and expensive process in the first one. In addition, there was little uniformity of procedure. The complexity

of court organization defeated the purpose of making justice easily available.

A determined effort to tackle this problem and bring uniformity into the court structure was made through the Judicature Acts between 1873 and 1876. The distinction between common law and equity courts was swept away and all courts received the right, where necessary, to use both kinds of law. The central courts were combined technically into a Supreme Court of Judicature which, though only a symbol of unity and not a court which ever meets, serves the purpose of preventing conflicts of jurisdiction between the separate central courts of which it is composed. The respective jurisdictions of the central and local courts were clarified, though some overlapping of jurisdiction still remains. But though the English court system is not completely unified (in the sense of a simple hierarchy of courts forming a complete system within which there is no duplication of work), the degree of unification is sufficiently complete for many American observers to view it with envy.<sup>8</sup>

The basic division in the modern English judicial system is into civil and criminal courts. The separation is most rigidly maintained at the local level where there are not only two entirely different sets of courts—the County Courts, which deal only with civil cases, and the courts of the Justices of the Peace, which deal with criminal cases—but also no interchange of personnel between these sets of courts.<sup>9</sup> The central courts are also clearly separated between those which handle civil and those which handle criminal cases, but the judges for the

<sup>8</sup> There are, of course, forty-nine hierarchies of courts in the United States, since each state has one and there is also the federal structure. The federal courts are well unified, much better than most state court systems. In general, there is little overlapping between the two systems, since the federal courts handle cases involving federal laws, and the state courts, those involving state laws. If the litigants are from two different states, however, they have the choice of bringing the case before a state court or a federal court, the latter being permitted on ground of "diversity of citizenship."

<sup>9</sup> This practice of having separate courts for civil and criminal cases finds no parallel in the United States. American county courts, for example, have extensive criminal as well as civil jurisdiction and are found in almost every one of the 3,050 counties into which the United States is divided. Many American states have a maze of local courts in none of which is there so clear a separation of function as between the English County Courts and courts of the Justices of the Peace.

<sup>7</sup> Scotland and Ireland have separate court systems. The description in this chapter is of the court system of England and Wales.

criminal courts at this level are drawn from the High Court of Justice, which is for civil cases. The only place where the hierarchies of civil and criminal courts officially merge is at the very apex where the House of Lords provides the final source of appeal for both.

### The Civil Courts

Civil law, as has been said, is concerned with the relations between individuals where there is no element of public security involved. Disputes over contracts, boundaries, partnerships, wills, or the payments of debts, suits for divorce, are all typical subjects for civil courts. In these courts, proceedings known as *actions* must be instituted by the person seeking redress. The purpose of civil jurisdiction is to right whatever wrong has been committed, and thus penalties

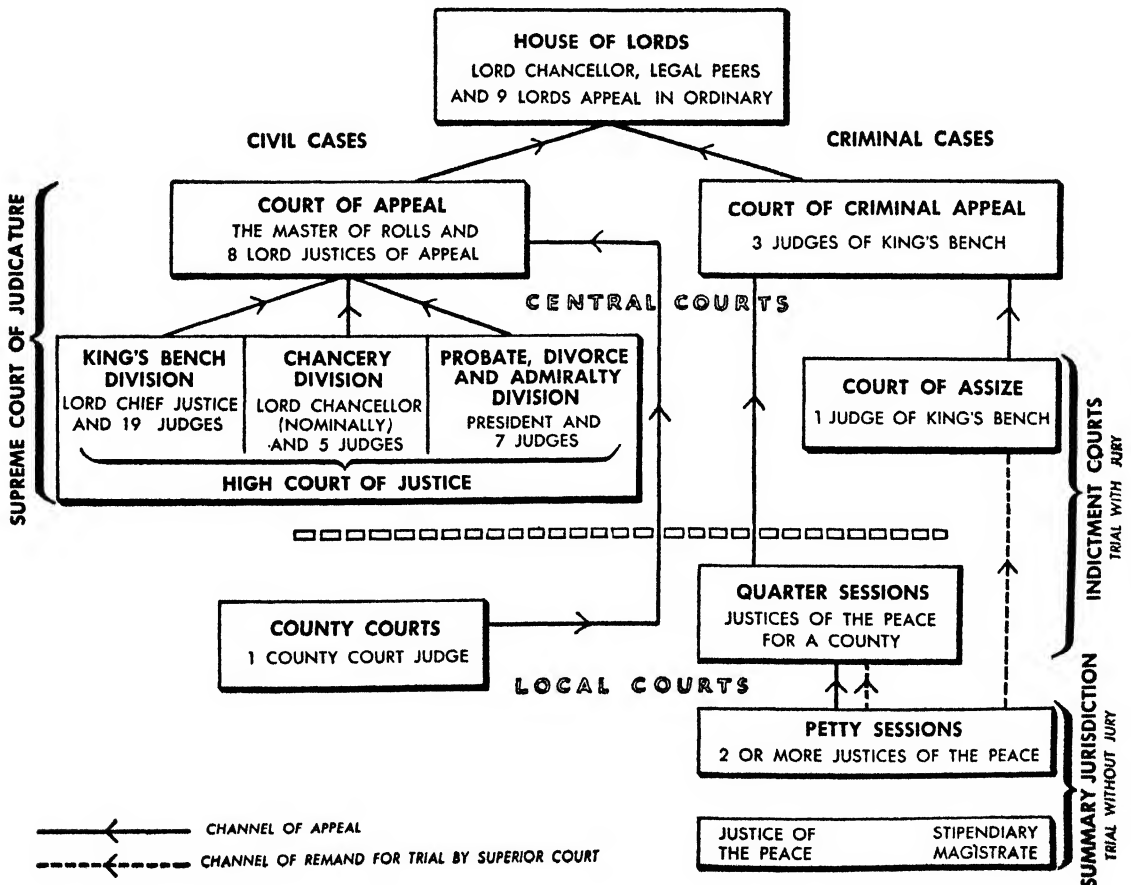
take the form of fines which are paid to the injured person.

Since civil cases are for the benefit of individuals, the government assumes no responsibility for paying the costs of a civil trial apart from the salary of the judge and the basic maintenance of the court. To meet the additional expenses of running the courts, the litigants pay fees, which are often quite high. Moreover, if a jury is used, the litigants must pay each juror a certain amount for every day he serves. Often, in fact, the costs of the trial are added to the fine which the loser must pay, thereby making unsuccessful litigation an extremely expensive process.

### THE COUNTY COURTS

The County Courts were established in 1846 for the purpose of making justice more easily

## THE COURT SYSTEM OF ENGLAND AND WALES



available in local areas. They are staffed by about sixty judges who travel around England and Wales holding court once a month in each of the towns included in their circuit. The size of the circuits is determined by the amount of work to be done and, despite the name of the courts, only a few of the circuits correspond to county boundaries.

The County Courts handle the smaller cases of civil litigation, those in which the amount involved does not exceed £200. In addition, they have been given jurisdiction by legislation in special types of cases, e.g., those involving agricultural holdings, rent restrictions, landlord-tenant relations, regardless of the amount involved.

A vast number of cases are filed in the County Courts but only a relatively small proportion of these are finally contested. In 1928, for example, 1,250,000 cases were filed but only 28,000 contested. This is partly because the judge or registrar settles many cases without the formality of a trial. Probably many more cases, however, are withdrawn because of the expense involved. So long as people without substantial means hesitate for this reason to have recourse to civil trials to settle their disputes, the bringing of justice into the local areas through the County Courts will have failed in one of its primary purposes.

#### THE HIGH COURT OF JUSTICE

Cases which are too serious to be handled by the County Courts, or which the plaintiff prefers to take directly to a central court in London, are dealt with by one of the three divisions of the High Court of Justice. The High Court of Justice, it must be noted, never sits as a court and is, in fact, mainly a symbol of unity. Each of its three divisions specializes in a particular subject matter, and the fiction of maintaining that they are part of the High Court of Justice rather than separate courts is to simplify the transfer of cases from one to another whenever, inadvertently, a case has been started in the wrong place.

Each division of the High Court has *original jurisdiction*; that is, cases have their first hearing in these courts. The King's Bench Division hears ordinary civil cases, like actions for damages, or cases concerned with taxation, insur-

ance, or commerce; the Chancery Division concentrates on matters formerly in the field of equity, such as the administration of estates, and company and bankruptcy matters; the Probate, Divorce, and Admiralty Division has no common subject matter, though the British novelist and former M.P., A. P. Herbert, once declared the unifying factor to be wrecks—wrecks of wills, marriages, and ships. Actually the unifying factor is that none of the three subjects was originally under the jurisdiction of Common Law courts, marriage and wills being formerly matters for the Ecclesiastical Courts, which used Roman law, and shipping coming under a separate court, which used mercantile law.

In theory, the judges of the High Court may allocate cases to any division they wish and, similarly, sit in any division. In practice, however, the work is sufficiently specialized so that the separation of work and personnel is fairly rigid. An exception must be made in regard to divorce cases, however, which from time to time overtax the appropriate division to such an extent that the King's Bench and County Courts have to take over some share of the load. Incidentally, despite the number of divorce cases, the King's Bench receives as many or more cases every year as the other two divisions together. As with the County Courts, however, only a relatively small percentage of the cases referred to the King's Bench come to trial.

#### THE COURT OF APPEAL

Apart from the courts of summary jurisdiction (i.e., courts in which no jury is used), there is no court of original jurisdiction in England, or, except for the Supreme Court, in the United States, whose decisions are not subject to appeal. In both countries, that is, there are higher courts with *appellate jurisdiction*, the authority to review and decide cases on request after they have been judged in a lower court. English courts are more restrained, however, in permitting appeals than are American courts (apart from the American Supreme Court, which now limits itself to cases of constitutional significance). Only in exceptional cases are appeals permitted on the ground that the facts elucidated by the lower court are in question, a rather common practice in the United States. In England, appeals are

generally restricted to cases where the interpretation of law by the lower court is challenged.

The Court of Appeal (which consists of the Master of the Rolls—see p. 183—and up to eight Lord Justices who sit in two or three divisions or occasionally all together in cases of great importance) receives appeals from both the County Courts and the High Court of Justice. The fact that more cases are appealed from the High Court than from the County Courts is indicative only of the greater importance of the High Court cases. If the trial in the lower court was with a jury, the Court of Appeal does not try the case itself on appeal but may, if it is satisfied of the necessity, permit a new trial in a lower court with a different jury. In cases which the Court of Appeal reconsiders itself, it does not hear testimony afresh, as is the practice in the United States, but reaches its conclusions on the basis of shorthand notes made in the original court or of notes made by the trial judge.

#### THE HOUSE OF LORDS

Above the Court of Appeal stands still a higher appeal court: the House of Lords. Odd as this may seem, this court is a classic example of the continuity of English institutions, for the historic right of the House of Lords to hear appeals dates back to the days of the Magnum Concilium of Norman times (see p. 18). But no less is this a classic example of the ability of the English to alter practice while retaining form: for more than a century it has not been the House of Lords as a whole which acts as a court but a very select group of its members, a group, in fact, which is elevated to the peerage for the sole purpose of performing this judicial function. In 1876, provision was made for the appointment of seven (now nine) Lords of Appeal in Ordinary (commonly known as Law Lords) who are paid, professional judges with life peerages. Together with the Lord Chancellor (see p. 183) and those peers who hold or have held high judicial office (such as former Lord Chancellors), they form the actual court of appeal. Thus, as other peers are excluded from participation, the appellate jurisdiction of the House of Lords in practice is that of a small group of highly trained legal experts.

Though the existence of this second appeal court is an expensive anomaly, it is at least used

sparingly. Its chief function is to elucidate particularly difficult points of law, and it rarely hears more than fifty cases a year, of which very few are criminal cases. Furthermore, the House of Lords is the highest court not only for England and Wales but for Scotland and Northern Ireland as well, and in this way provides a certain unification for the three judicial systems.

#### THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

There is one other appeal body, the Judicial Committee of the Privy Council (p. 109) which, strictly speaking, does not belong in the English judicial hierarchy because it reviews cases appealed from courts in various parts of the British Empire outside Great Britain itself. Technically the Judicial Committee is not a court which renders decisions but a body which gives advice to the King on cases referred to it; in practice, however, the distinction is unimportant. Though the jurisdiction of the Judicial Committee of the Privy Council is very different from that of the House of Lords, its personnel is almost identical because, at the time when the Law Lords were created as salaried life peers, it was decided that they could carry the bulk of work in both bodies. Moreover, whoever else participates in the judicial work of the House of Lords is almost always a privy councillor and thus entitled to be a member of the Judicial Committee of the Privy Council. The only difference in the membership of the two bodies is due to the practice of giving a few places on the Judicial Committee to colonial or Dominion judges, particularly when a case affecting a particular area is under consideration. All the Dominions except New Zealand have restricted the right of appeal to the Judicial Committee of the Privy Council (p. 216), but it still serves as the final source of appeal for British territories which have not acquired full rights of self-government.

#### The Criminal Courts

There are a number of ways in which criminal cases differ from civil cases. Since criminal cases involve acts which affect public order, they are instituted through *prosecutions* which are brought in the name of the King. But a prose-

cution may be instituted by anyone whether he has been affected by the act or not. In fact, a distinctive feature of English criminal justice, as already noted, is that private persons are expected to assume much responsibility for instituting criminal proceedings, not to leave them solely to the police or district attorney, as is the more customary American practice.

Further, because criminal jurisdiction is concerned with acts which affect society as a whole, the costs of a criminal trial are borne by the public, and any fines imposed go into the public treasury. In such cases as assault, damages may also be awarded to an injured person; those damages are, however, usually collected through a civil suit conducted parallel to the criminal prosecution.

Americans are usually surprised at the relatively small number of serious crimes in England. In 1939, for example, England and Wales with a population about one-third that of the United States had only about one-twentieth as many serious crimes: less than 80,000, as compared with nearly a million and a half in the United States, and only 84 cases of murder and manslaughter while the United States had 7,514. The relatively small number of serious crimes in England seems to be due in part to the homogeneity of the English people, their strong respect for law, and the common attitude that crime is a disgrace, and in part to the efficiency and incorruptibility of the police. The net result is that English criminal courts have a much smaller volume of serious cases to consider than comparable American courts.

#### THE COURTS OF THE JUSTICES OF THE PEACE

Local justice in criminal cases is provided by the Justices of the Peace in over a thousand courts throughout England and Wales. The very smallest offenses may be settled by a single Justice of the Peace, and somewhat more important ones by a Stipendiary (paid) Magistrate in one of the larger towns. It is characteristic of the courts of the Justices of the Peace, however, that at least two Justices consider each case.

At the base of the system is the *Court of Petty Sessions* (with two or more Justices) which has two main functions: the trial of cases in which no jury is used (i.e., by summary jurisdiction), and the investigation of cases to be referred to a

higher court for jury trial. Petty Sessions try both minor, non-indictable offenses, like cruelty to animals or riding a bicycle without a light, and more serious, indictable offenses, like stealing, for which the defendant has, for reasons of speed and cheapness, voluntarily waived jury trial. In practice, the most striking trend in local jurisdiction, as we have seen (p. 182), is the increasing use of the Courts of Petty Sessions for summary jurisdiction. Today 97 per cent of all criminal cases in England and Wales are dealt with in Petty Sessions.

When the Justices of Petty Sessions investigate a case for which the defendant claims jury trial, or one like bigamy or murder for which jury trial is obligatory, they determine whether or not the prosecution has made out a reasonable case against the defendant. If they are satisfied that there is a presumption of guilt, they remand, that is, send the case for trial to a superior court. Here they have their choice between two possibilities: Assizes (see below), or the *Court of Quarter Sessions* (held four times a year as the name suggests) at which all the Justices of the Peace for that area may be present. Quarter Sessions cannot try any offense which carries the penalty of death or life imprisonment, like murder or manslaughter, and rarely attempts complicated cases, such as those involving bigamy or forgery. It generally handles cases like assault, stealing, or housebreaking, where specialized judicial knowledge is not essential. The Justices in Petty Sessions often decide, however, between sending a case to Assizes or Quarter Sessions according to which court meets first.

#### ASSIZES

Quarter Sessions are the apex of the local courts of the Justices of the Peace; *Assizes* are also courts that are held in local areas, but they are presided over by judges of the High Court (generally from the King's Bench Division<sup>10</sup>)

<sup>10</sup> The King's Bench is a direct descendant of the old *Curia Regis* of Norman days through which the King personally dispensed justice. Theoretically, the King's Bench still sits under the Presidency of the King while it is in London and travels with him into the counties, though in practice the Lord Chief Justice represents the King in London and a Lord Justice represents him in the Assizes in the counties. Its historical background explains why judges of the King's Bench undertake so many functions, including both original and appellate jurisdiction, and civil and criminal jurisdiction.

who travel two or three times a year to designated towns in each county. (The Central Criminal Court, or "Old Bailey," is the London equivalent of Assizes.) Cases at Assizes are heard before a single judge and a jury, and may include the most serious of indictable offenses, including treason.

There is much to be said in support of the practice of holding Assizes, and something to be said against it. The distinctive feature of Assizes, which is duplicated in no other country, is that the best judges in the land go into the local areas to provide justice. There is little question but that the practice helps to improve the quality of local justice. But many people feel that it makes too heavy a drain on the resources of the central courts and, by drawing the judges of the King's Bench Division out of London so often, causes unfortunate delays in the handling of civil cases.

#### COURT OF CRIMINAL APPEAL

There are rights of appeal in criminal cases as well as civil cases, but the process of appeal in the former is more elaborate; in fact, it is like a new trial before another court.

Appeals are possible from Petty Sessions to Quarter Sessions, where they are held before three to twelve Justices of the Peace of the county, without a jury. More customary are appeals from Quarter Sessions or Assizes to the Court of Criminal Appeal. This court is not staffed by a distinct group of Justices of Appeal, as is the civil Court of Appeal, but consists of the Lord Chief Justice and judges of the King's Bench. Cases are customarily held before three judges. Appeals must always be instituted by the defendant, never by the prosecution, and are allowable on points of law; if the issue is one of fact or change of sentence, appeal is allowed only with permission of the court. If the Court of Criminal Appeal retries a case it may not only quash a conviction but also change or even increase a sentence.

Though the House of Lords (see p. 187) technically is the final court of appeal as in civil cases, such appeals in criminal cases are rarely granted and only if it seems clearly to be in the "public interest."

As in the United States, it is on exceptional occasions possible in Great Britain to have par-

dons granted by the Crown; these mediate or terminate a sentence awarded by a criminal court. The Home Secretary (p. 140) must advise the Crown, which may then make use of its prerogative power of mercy.

#### *How Satisfactory Is the English Court System?*

The court system in England and Wales is well organized to handle different types of cases according to their degree of severity and to permit appeals so that there can be a check on the judgment and reasoning of the judges in lower courts. The independence of the judiciary and the courts ensures freedom from political influence. But there are other questions which must be raised in determining whether or not English courts are adequate to their responsibilities. What is the atmosphere of the courts? Do the courts provide an opportunity for all aspects of a situation to be explored? Do they give private persons adequate protection in criminal cases when the resources of the government are behind the prosecution? Do the courts provide speedy, effective means of settling disputes? Is justice, in practice, open to all on equal terms?

#### THE ATMOSPHERE OF THE COURTS

Visitors to English courts are impressed by the solemnity of the proceedings. Even lower courts have a dignity and formality which in the United States is almost wholly confined to the higher courts. Arrayed in wig and gown, the judge or judges sit above and apart from the rest of the court. The lawyers, also gowned, present the circumstances of the case and reply to each other's arguments in a restrained way which contrasts with the vehemence so often displayed by American lawyers. Witnesses are brought forward and questioned as to the facts, but there is no "bullying." The defendant and plaintiff may present their views. The judge listens attentively, giving the impression that every fact is important in making his final decision. Spectators are not permitted to make a noise or to indicate their sympathies. The atmosphere is that of a learned debate. There may be drama in a great lawyer's brilliant presentation of a case or in the manner in which he draws the facts from an unwilling witness. But the

appeal is not to the spectators in the courtroom: it is to the judge, or jury and judge, who will make the decision. The presentation may be eloquent but to be effective it must be logical and based on a wide knowledge of legal practices.

#### IS ALL THE EVIDENCE BROUGHT OUT?

The distinctive feature of a trial in an English or an American court, as compared with a trial in a Continental court, is that in the Anglo-Saxon system the judge looks on himself as an umpire before whom a case is argued, not as an investigator seeking to determine guilt or innocence. The English or American judge makes little effort to speed the proceedings, and leaves the major responsibility for bringing out the facts to the interested parties. During the trial the judge does not assume an active role in cross-questioning, as does a Continental judge, though English judges are apt to play a more decisive part in bringing out relevant facts than are American judges. In any event, the English judge makes sure that irrelevant material is excluded from consideration and that full opportunity is given to all sides to present their case. It is left to the parties, at least in a civil case, to make use of their chance.

#### IS ADEQUATE PROTECTION AFFORDED THE DEFENDANT?

The notion that a trial is a contest in which both sides should have an equal chance is maintained also in criminal cases, though here the prosecution, with the resources of the government behind it, has an obvious advantage. Much is done, therefore, to afford protection to the defendant. A person accused by the police of a breach of law must be immediately warned that anything he says may be used against him. Furthermore, in the trial, witnesses may not be asked leading questions which suggest an answer (e.g., "Did you see a revolver in his hand?") Instead, they are asked, "Did you see anything in his hand?" and "What was it?"). Nor may evidence be introduced of previous misdoing calculated to prejudice opinion against the defendant.

Other safeguards guarantee that there can be no arrest without a warrant; crimes must be known to the law, that is, there can be no prosecution for an act which had not been declared

to be a crime at the time it was committed; ignorance of fact is a complete defense, e.g., in a case for bigamy, ignorance of the fact of a previous marriage. By these means the individual is given protection from arbitrary state action.

An examination of Nazi judicial methods demonstrates how important this protection is. In Nazi Germany acts were declared to be crimes merely because judges found them to be contrary to the "sound folk sense of the people." Arbitrary arrest was common. The special Nazi courts of the judicial system became instruments of oppression because they ignored all the traditional safeguards of the rights of individuals (see p. 638).

The Anglo-American system goes very far in the other direction in giving defendants the benefit of every doubt. Yet the fact that crime rates are low in England and Wales indicates that the standards of the community have not suffered accordingly. In the United States, where serious crime is proportionately much higher than in England, the high rate seems to result from inadequate enforcement of the law rather than from court procedures which protect defendants. As far as court action is concerned, the Anglo-American system seems capable of upholding community standards and at the same time affording the accused elaborate protection designed to give him the maximum chance to defend himself.

#### DO THE COURTS PROVIDE SPEEDY REMEDIES?

Besides providing for careful consideration of cases and for elaborate protection of the rights of individuals, the English court system is also fairly successful in providing speedy, effective means of settling disputes—contrary to the situation in the United States where many courts are years behind in their cases.

In English courts the rules of procedure are simple, straightforward, and effective. In the United States the rules are generally the result of legislative activity and are frequently unsuitable for their avowed purpose of aiding the execution of justice. English rules governing the giving of evidence, pleading, and so forth, were originally developed by individual courts, but since 1873 they have been drafted by the Rules Committee under the Lord Chancellor; the work of this committee has been so satisfactory



that there has never been a parliamentary veto on its proposals. As a result English legal procedures are hampered by a minimum of technicalities. Only very rarely are decisions reversed in England on a question of procedure, in contrast to the frequency with which this happens in the United States.

One difficulty in the way of speedy handling of cases, however, is the general lack of decentralization in the English court system: appeals must be heard in the central courts in London, and this makes for inconvenience and expense.

#### ARE THE COURTS OPEN TO ALL ON EQUAL TERMS?

Technically, of course, the courts are open to all on equal terms. Equality before the law and equality in having recourse to the courts are cherished rights of Englishmen. But in practice it is like saying that everyone has a right to buy a Packard. Court and lawyers' fees are so high in England as well as in the United States that people of moderate means cannot view the prospect of civil litigation without concern. Moreover, though there are no court fees to pay in criminal cases, legal aid is as expensive in this field as in civil cases.

The most substantial attempt in English legal history to meet the charge that the court system unduly handicaps the poorer litigants has been made by the Legal Aid Act of 1949. Although since 1926 there had been an enlarged program of free legal aid for people who were entirely without means, the system had suffered from various defects, such as lack of publicity, no provision of aid in the County Courts, and lack of relevance to the problems confronting those of moderate income. The Legal Aid Act of 1949 covers representation in all the regular courts and, in effect, provides that the very poor pay nothing for legal aid, and that those of moderate income pay what they can afford. The Law Society and Bar Council administer the system of legal aid; the local Assistance Board investigates the question of means (a fact which restrains many people from applying for aid); the Treasury finances the plan. Certain types of action, notably those which are open to abuse like suits for libel or breach of promise, are not covered by the Act.

Some people feel that even the provisions of

the 1949 Act do not sufficiently meet the criticism that the English court system unduly favors the wealthy. They advocate a National Legal Service, comparable to the National Health Service (see p. 199), under which lawyers would be organized for the service of the community. Others believe that the expenditures on trials should be compulsorily limited as are the expenditures on parliamentary campaigns. Yet it is well to remember that very cheap justice might be exploited by those who have nothing to lose by pressing dishonest charges. The method taken by the Legal Aid Act for making justice more accessible to all may well be the safest means of approach to a perennial problem.

Whatever changes may be undertaken to make English justice more easily available to the mass of the people, there is a universal desire to maintain the independence of the judges and the freedom of the courts from political control. The average Englishman believes these features essential for the individual rights which he so dearly cherishes.

#### IV. JUDICIAL CONTROL OF GOVERNMENT OFFICIALS

That the acts of government officials are judged by the same rules of law and by the same courts as those of ordinary citizens has long been considered a major safeguard of liberty in Anglo-Saxon countries. One of the characteristic features of the "rule of law," declared Professor A. V. Dicey, a great nineteenth-century commentator on the British constitution, is that "every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals"; and he drove this point home by declaring that "every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen." Thus an official is no more above the law than anyone else and is equally responsible for justifying his actions in regular court proceedings.

Great Britain and the United States both continue to uphold the general rule expressed by

Dicey and, in consequence, do not follow the Continental practice of having a separate system of administrative law covering the relations between government officials and private individuals, and a separate system of administrative courts for such cases. There have been, nevertheless, certain modifications of the rigid interpretation of Dicey's view. Thus there are in both the United States and Great Britain today a number of administrative tribunals which deal with certain types of complaints against official actions. As we shall see immediately below, there have also been gradual modifications of the rule that government officials are personally liable for acts done without legal authority, these modifications having been found to be in the interest both of forceful governmental action and of effective recompense to individuals injured by the action of state officials.

### **Personal Liability of Government Officials**

Because the two modifications of Dicey's dicta are of very different character, they must be treated quite separately. Of the two the question of the individual liability of government officials is the more complicated because it is bound up with another conception of English law, originally defined as "the king can do no wrong," which in modern American and English practice has taken the form of "the government cannot be sued without its consent." The reason the two conceptions are bound so closely together is that as long as the government refuses to assume responsibility for the action of one of its agents, the only recompense is to sue the agent in his personal capacity. But the fear of being subject to a personal suit for damages as the result of a decision taken in an official capacity may restrain a government official from performing his duty according to his best judgment. Moreover, the citizen who has been injured may well be unable to collect adequate recompense from the official personally.

Take, for example, the case of a sanitary inspector who believes he detects foot-and-mouth disease in a cow at the stockyards. He orders the animal to be killed at once. Subsequently it is found that the animal was not suffering from the disease. The owner attempts to get redress through the courts. If the judge agrees that the

action of the inspector did not fall under the authority of the law, the inspector becomes personally liable for damages and his property may be attached and sold. On the other hand, if the judge upholds the action of the inspector as justified by the discretionary power vested in him by the law, the owner of the cow is left without redress so long as the state refuses to assume responsibility.

This situation may create a double problem. It is likely to stultify administrative discretion, which, as Harold Laski has pointed out, is "the essence of the modern state" because it permits flexibility in the handling of legislative rules. It may also penalize individual citizens who have been injured by the actions of government officials but have no redress because the action was covered by law. Consequently, the courts and the government have gradually modified their stands. Both English and American courts usually uphold a government official in a private damage suit as long as negligence cannot be proved against him. In addition, both the British and American governments have steadily facilitated the process of entering suit against them.

In general, a distinction is made between acts committed by the government in its *sovereign capacity*, and those in its *proprietary* or *business capacity*. The former covers most of the older functions of government, such as maintenance of order, i.e., the operations of the police and the courts, conduct of foreign affairs, and operations of the army and navy, none of which is subject to suit. (Thus, it may well be impossible for bystanders to secure redress for injuries caused by a policeman in pursuit of a murderer.) The latter comprises the newer functions of government involved in maintaining standards of education, labor, and so forth, providing services like highways, playgrounds, or health centers, and conducting nationalized enterprises. In regard to these functions, practice has varied considerably in the past. Public corporations have always been able to sue and be sued. In cases of contract, or in cases involving private property, it has been possible to secure restitution or damages from the state, though the process has been cumbersome, and by leave, not by right. But recently there has been a vast and rapidly growing sphere of departmental action at both local and national levels which has

brought the state increasingly into contact with individuals; within this sphere the individual has had no easy means of securing redress for injuries.

A major advance in this regard was achieved with the passage of the Crown Proceedings Act of 1947. This Act enables ordinary citizens for the first time to bring suit against the government in the same courts (e.g., the County Court) and in the same way "as if the Crown were a fellow citizen." Thus in the case of the sanitary inspector mentioned above, the owner of the cow could now collect damages from the state while the inspector himself would be free from responsibility as long as there was no negligence involved. Moreover, the Act makes government departments responsible not only for statutory duties but also for the common law duties imposed on ordinary employers, owners, and so forth.

At a time when the state is acquiring such extended functions of regulation, control, and operation of services, little could be more important than to establish the right of individuals freely to sue government agencies in case of injuries. In commenting on the measure, the Attorney-General declared that it ensures that "the rights of the little man are just as mighty, and are entitled to just the same protection, as the rights of the mighty state." What has been recognized, in fact, is that the cherished principle of equality before the law requires new procedures to protect the citizen in his relations with the modern administrative state.

### **Administrative Tribunals**

The supporters of the Anglo-American system believe that its strict adherence to legal rules provides the best means of holding officials within the limits of their authority. Most of them maintain that having only one set of courts means that no question of high state policy can interfere with careful scrutiny of official acts by judges who make not expediency but law their criterion. Yet here again, the convenience of the public as well as the maintenance of administrative efficiency has made necessary certain modifications of traditional arrangements. Increasingly, both in the United States and Great Britain, administrative tribunals (i.e.,

quasi-judicial bodies composed of administrators, not judges) have been set up to handle questions arising out of administrative regulations.

In both countries there have long been commissions to pass on railway rates, and tax and patent appeals. Great Britain has special tribunals, both regular and *ad hoc* (i.e., set up for a particular case), to which industrial disputes may be referred with the agreement of both employers and employees. Several British ministries have special bodies to deal with appeals in matters under their particular concern, among the most valuable of which are the Local Appeals Tribunals on social insurance legislation and benefits, which are representative of the public, employers, and employees, and which provide a much needed human touch in a complex system.

There are several justifications for this development. In the first place, procedure in these administrative tribunals is direct and speedy, and easy for a layman to understand. It is far less complicated and less expensive to have a case decided in an administrative tribunal than in a court. Formerly, for example, workmen's compensation cases were referred in England to the County Courts where there was a time-consuming, tedious, and costly procedure; now they are handled by an administrative tribunal which can adjust its procedure to the particular case without being bound by rigid precedents, and yet which strives to provide uniform rulings. Further, administrative tribunals are staffed by experts who deal with subjects, e.g., patents, which require technical knowledge. Moreover, because there is a single central tribunal, there is consistency of treatment and co-ordination of results. But administrative tribunals are particularly useful, according to the English authority, Professor William A. Robson, when it is necessary to set up new standards in a previously unexplored field, e.g., town and country planning. This is especially true when the newly instituted policy of social welfare challenges private property rights, which the common law traditionally protects.

It is hardly surprising that the administrative justice provided by these tribunals has come under attack. Lord Hewart, who assailed delegated legislation in his book, *The New Despot-*

*ism* (see p. 135), also had words to say against administrative tribunals. But the Committee on Ministers' Powers upheld administrative justice as inevitable in the modern state and highly useful so long as kept within reasonable bounds. Safeguards are provided through provisions that the tribunal shall normally be composed of three members, selected from outside interests as well as the agency concerned; that there be oral hearings as well as written submissions, and the right of representation by lawyers or friends; that the principles or policy followed by the tribunal, and the basis for its decisions, should be made public. As yet, however, there is all too little uniformity of practice among administrative tribunals.

Though much can still be done to improve the working of administrative tribunals, they clearly perform functions, e.g., in regard to rent control, military service, national assistance, for which they are far better equipped than are the regular courts. Yet few people in the United States or Great Britain would be satisfied to make administrative tribunals the final judges of both fact and law in their fields. Even with the widespread and generally successful experience with administrative justice, there remains a strong feeling that here as elsewhere the courts should be the ultimate guardians of the rights of individuals.

There are two particular ways in which administrative tribunals come under the control of the law courts: through *appeal* and through

*review*. Appeal is possible only if provided for in the legislation that establishes the particular administrative tribunal, and in any event could generally be acted on more successfully by a more specialized body than the regular court. But (unless expressly excluded by law) there is a general right of review by higher courts over the decisions of all lower courts, including administrative tribunals. Though it is increasingly recognized that, because of their expert knowledge, administrative tribunals may be the best judges of the facts of a case, e.g., the safety devices in a factory in a workmen's compensation case, it is also maintained that in questions of interpretation of law, i.e., whether authorities are acting within their statutory powers and strictly following prescribed procedures, the regular courts should have the final decision.

It would be a mistake to assume that the courts provide the only restraint upon the public administration. Parliament and the Cabinet undertake general and sometimes very detailed supervision of the administration; government offices themselves, in particular the Treasury, keep constant check on administrative activities. But the final protection of individuals, whether from arbitrary arrest, or the negligence of officials, or any other misuse of authority, lies with the courts. Only they can perform this service. And for this reason it is not too much to say that independent and impartial courts are a decisive factor in maintaining a balance between the power and the responsibility of government.

## CHAPTER 9

# Great Britain: A New Society?

The British have long practiced political democracy; they are now seeking social and economic democracy. The effects of this newer trend upon the character and working of government are likely to be as great as the effects of the earlier breaking down of political privilege. Social and economic developments not only increase the functions of government (as has been true in Great Britain for more than a century) but give government purpose and direction. And the British people as a whole are today united in their determination to provide "a national minimum standard" for everyone in Great Britain.

The great contribution of the Beveridge Report was to make it clear that the British goal of "freedom with security" required a simultaneous campaign against all five "Giants" of want, ignorance, idleness, squalor, and disease (see p. 130). Between December 1942 (when his Report immediately became a best seller) and July 1948, measures for education, national insurance, health services, housing, and town and country planning instituted striking changes in all these fields. Most of these measures were introduced by the Labor government, but they were the result of extended discussions by the wartime Coalition government, of which Conservative, Liberal, and Labor leaders were a part. They were thus, in essence, the product of joint action. Moreover, except for certain details, they have continued to command the support of every party and substantial group in the community. Thus if these measures effect a minor revolution in distribution of income and equalization of opportunities, as may well be the case, it will be a typically British revolution-by-consent.

### I. EDUCATION

First on the legislative program, and ultimately most significant for the structure of British society, stands the new educational program embodied in the Education Act of 1944.

Though the educational system did not create the class distinctions in England, it has been a powerful element in perpetuating them. Prior to the Education Act of 1944 there were fees for the secondary schools, which provided the only route to college, and thus to a profession. Unless children's parents could pay these fees or the children could win scholarships, education ended at the elementary level, at the age of fourteen, and there was no transition to schools preparing for college. Under this system, children of the poorer classes usually were not prepared even for most "white-collar" jobs. The educational system thus has tended not only to perpetuate the class structure but also to stratify employment possibilities.

Opportunity has been further limited by the predominant position of the private preparatory schools (comparable to the private elementary schools in the United States), which have had a virtual monopoly over entry to the great public schools like Eton and Harrow (so-called because they are not run for private profit, though they are entirely or mainly independent of state aid or control, and are, in fact, like the American private preparatory schools), to which students normally go at thirteen, and the old universities of Oxford and Cambridge. Only 5 to 10 per cent of the schoolboy population enters the preparatory schools and the great public boarding schools, though the great majority of this group goes on to a university, particularly Oxford or Cambridge. In 1939 Oxford, which,

together with Cambridge, enrolls about one-quarter of all university students in England and Wales, had only 352 out of 4,307 undergraduates who had attended public elementary schools, though half of the students at other British universities were graduates of such schools.<sup>1</sup>

In contrast to the United States, only a relatively small proportion of British youth attend college. With a population only three times as large, the United States had twenty times as many students in colleges and universities in 1939 as had Great Britain (one million as compared with fifty thousand). It is true that socially and intellectually the American college, at least in the first two years, is more akin to a British secondary school than to a British university. It is true also that, in proportion to the total number of the population, the number of university students in Great Britain had doubled since 1900. None the less, higher education still was enjoyed only by the relatively small minority of one in a thousand.

### **The New Program**

The new educational program does not seek to change educational methods but to open opportunities to all students on the basis of ability. It keeps the emphasis on highly individualized education and devotes attention principally to removing financial barriers. For this purpose the old division between elementary and secondary schools has been replaced by a unified free system extending to the legal school-leaving age, which in 1947 was raised to 15 and ultimately is to be 16. Pupils may be trained primarily in cultural, technical, or "trade" subjects after 13, but aptitude rather than economic or social position is to govern the decision.

As in the United States, though even more significantly, separate church schools and private (or as the English say, public) schools still continue side by side with the publicly endowed or controlled system. Most church schools now receive grants-in-aid of expenses, and in return must reserve one-quarter of all their places for students whom local education authorities may wish to send there on scholarships. The same

practice may be followed by local education authorities with both preparatory and public schools, though no fixed proportion of places is reserved. It is worth noting, however, that a wartime report on the public schools proposed that they too reserve one-quarter of all places for students from public elementary schools.

What effect this new educational program will have on entrance to universities is not yet determined. All British universities are privately run and, though they receive a yearly grant from public funds, they are forced to charge fairly high fees. Scholarships are the normal way of making it possible for students of moderate means to go to the university and, before the war, more than one-half of the students at British universities were on scholarships. But though the number of university students has now risen to 84,000 (of whom some 42,000 receive aid) still more and higher scholarships may be necessary if a more representative group is to attend Oxford and Cambridge and if working-class families are to send their sons and daughters even to "motor coach universities" (so-called because there are no dormitory facilities).

The universities are not the only place, however, where further education can be obtained. As soon as possible, all students leaving secondary school will continue with part-time study at *county colleges* until they are eighteen. For this purpose employers must provide one day or two half days a week within regular employment hours. In rural areas the county colleges (patterned on the highly successful Danish Folk High Schools) may be residential for four to eight weeks in the "dead season" of winter. Study in the county colleges is designed to bridge the gap between school and work (a gap which is also a problem in the United States) and is expected to lead to a still wider use of the long-established and highly popular courses in adult education which are general throughout the country.

### **THE COST**

That the new education system is expensive cannot be denied. It costs about 40 per cent more than formerly and will probably account for about 6 per cent of the national income, as compared with 3 per cent spent in 1946 (and 1.5

<sup>1</sup> Education in Scotland has always been more equalitarian than in England.

per cent of the national income spent in the United States for education in 1946). Local government is responsible for raising this money with the aid of a 50 per cent grant (which many believe is not a large enough share) from the central government.

#### THE GOALS

Despite its costs, however, few people in Great Britain question the new educational program. Ignorance, as Beveridge pointed out, is one of the greatest obstacles to the attainment of society's purposes. And for almost the first time the English have recognized the necessity of educating a whole people (the function to which American education has been mainly directed) as well as of developing individuals. But the same problem now faces both Great Britain and the United States: how to retain high intellectual standards and training for leadership at the same time as opportunity is opened to all.

The major task of the new British education has been defined as guaranteeing "freedom for diversity of personality in a social order much more thoroughly collectivist in its working than we have experienced." Intellectual training alone cannot achieve this goal. One critic has said that "purposefulness, enterprise, initiative and originality" should be ranked along with academic achievement in determining admission to higher education, which is to say that what the public schools have done in training character is desirable in any kind of education. To put the aim of the new program briefly, the British are consciously attempting to find satisfactory means of promoting both intellect and character, both individual development and social responsibility.

## II. SOCIAL SECURITY

Education seeks to develop the individual in terms of his capacities and inclinations and to make him aware of the cultural heritage and dominant ideas of his society, to the end that he may play an effective role in the community. Social security endeavors to prevent this contribution from being wasted through poverty or ill health.

Assistance (or relief, as Americans would say)

and insurance are the two major approaches to social security. *Assistance* rises from the old concept of relief and is directly related to need. Because it has the advantage of being individualized, it is excellent for emergencies; but according to the modern view, it should be the exceptional and supplementary rather than the normal way of relieving poverty.

The basic form of modern welfare service is *insurance*. No different in principle from personal insurance, social insurance is a great national plan for sharing risks and handling the problem of maintenance of income. Social insurance has two great advantages over assistance: it is simpler to administer, and the benefits carry no taint of public charity. But though insurance can meet common needs through a general plan, local authorities in Great Britain still have responsibilities under the National Assistance Act for giving aid in cases of "sudden and urgent need."

To establish a "national minimum standard" in Great Britain requires safeguards against the major prevailing causes of poverty. The investigations on which the Beveridge Report were based indicated that between three-quarters and five-sixths of the urban poverty in Great Britain was due to interruption or loss of earning power because of unemployment or illness. Much of the remaining poverty resulted from the fact that many families had more children than they could support on meager wages. Hence the plan for social security places its greatest emphasis on family allowances, health insurance to provide medical care, and national insurance to establish a minimum standard of living when unemployment, old age, or death rob the family or individual of normal sources of livelihood.

### *Family Allowances*

In earlier times children were considered an important source of income to the family, and today in some countries like China their labor is of great usefulness in the care of animals or cultivation of the soil. But because western industrial countries forbid child labor and enforce compulsory education, children have become a drain on family resources, one of the biggest single remaining causes of poverty. The provision for children's allowances seeks to rectify



this situation. Such allowances also simplify the national insurance problem, since without them "adequacy of provision" under national insurance would vary according to the size of the family.

On August 10, 1946, millions of mothers stood in line in the cities and villages of Great Britain to receive the first grants under the *Family Allowances Act* of 1945. No allowance is made for the first child, but for all other children under sixteen years of age a mother receives a weekly allowance of 5s. (equal to 70 cents when the pound is pegged at \$2.80).

Children's allowances are not the only means whereby families are being relieved of former financial burdens. Free secondary education and free medical care have cut expenses substantially. Some schools provide free meals and milk, a service which may be made mandatory. But though these measures relieve lower middle-class families, they do not meet the need of the working-class family which is living close to the edge of subsistence. Probably only enlarged children's allowances would answer this problem.

### National Insurance

Social security for everyone "from the cradle to the grave" is the purpose of the British national insurance plan incorporated in the *National Insurance Act* of 1946, and the *National Insurance (Industrial Injuries) Act* of 1945 which, with the National Health Service, entered into force on July 5, 1948. The former measure follows the original Beveridge proposals closely and combines existing social services into one plan with which all other new services are related.

The major criticisms of measures which antedated the Beveridge Plan were that they excluded too many groups, omitted certain basic needs, paid too low benefits, and covered too limited a time. It was also felt that too much commercialism and waste accompanied the activities of "friendly societies" which collected insurance contributions for funeral and death benefits. Moreover, the variety of unrelated social measures made for confusion which often lowered the quality of service.

The new plan attempts to meet these criticisms by instituting national insurance for

everyone. Contributors pay for it by buying and sticking a single stamp on a card once a week. Contributions differ according to whether persons are employed under contract of service or are self-employed or non-employed, but the average payment by employed persons is four shillings a week, to which employers add three shillings a week for each employee and the central government two shillings a week. Housewives, and the self-employed or non-employed who earn very small amounts, may be freed of contributions, but they then lose benefit rights. If persons are unemployed or incapable of work, or are drawing pensions, or pursuing full-time education or unpaid apprenticeship, they are credited with contributions but need not pay them. Otherwise everyone in Great Britain between school-leaving and retirement age pays a weekly contribution to the nation-wide plan for insurance.

### INSURANCE BENEFITS

Once a person has made a minimum number of payments, he is entitled to benefits when he needs them. Benefits, which provide a basic 26s. a week are awarded regardless of the cause of neediness, whether sickness, unemployment, or old age (or, as it is now called, retirement, for which women are eligible at 60 and men at 65). There are only two exceptions to this rule: the self-employed cannot draw unemployment insurance, and persons injured through industrial accidents receive 40s. a week instead of the customary 26s. Some explain this increased grant as resulting from Labor's special interest in industrial workers; others feel that it is an attempt to encourage workmen to enter hazardous occupations, like mining, and that in the "battle for exports" this is a legitimate compensation for injury to the "soldier of industry." Special benefits also provided under the national insurance plan include maternity allowances of 36s. a week for 13 weeks plus a grant of £4, widows' pensions, guardians' allowances (for orphans), and death grants of £20 to cover the cost of funerals. In addition to the 26s. a week received by an insured person in case of need, each of his adult dependents receives 16s. a week, and the first child 7/6, in order to protect families as a unit against the dislocation caused by loss of earning power.

The greatest triumph for Labor in the national insurance plan is the complete abolition of the "means test" under which personal resources were investigated before relief was given. Benefits are now claimed of right and without investigation into the extent of need, though the Public Assistance Board still operates to fill any gaps which arise in the comprehensive social insurance scheme. It is also something of a triumph that there is provision for indefinite national assistance under local control, in case unemployment extends beyond the initial 180 days which insurance covers. Other benefits include provisions for vocational training, under which higher allowances are paid to those taking approved courses. Hence the plan provides practical, intelligible protection for labor against modern industry's greatest hazard. But the provisions indicate clearly that an essential assumption of the plan is the avoidance of mass unemployment, for only a community with a high level of employment can support such a program.

### **National Health Service**

The most radical of the measures to establish a "national minimum standard" for everyone is the *National Health Service Act* which superseded a variety of health insurance schemes and entitled everyone in Great Britain to free medical attention and hospital care. The principle, long accepted in education, that all persons should have access free of charge to specialized institutions and professional skill is thus extended to health.

Few topics are more controversial than "socialized medicine." According to the most popular slogans of critics, "People don't appreciate what they don't pay for" and "Doctors won't be interested in their patients if they are just cases from the panel." Advocates of the new system maintain, however, that its great achievement will be to prevent illness as well as to cure it; for people often permit a slight illness to turn into a serious one by waiting too long before seeing a doctor, in the hope of saving the expense. Nation-wide physical examinations during the war revealed unexpectedly poor standards of physique both in Great Britain and in the United States, and, increasingly, nations are realizing that the health of their citizens is one

of their chief assets. As for the doctors, it is argued that their long established standards of professional ethics are unlikely to fall merely because physicians are placed in the same position as teachers in any state-supported school.

The major difficulty in establishing a national health service is, as Lord Dawson of Penn, the King's physician, once pointed out, "to combine socialism in its administration with individualism in its practice." Though many British doctors were convinced of the need for national health service by the wretched facilities in rural areas, e.g., asylums, of which they became aware for the first time during the war when they were bombed out of London, with its excellent facilities, they long opposed the government's plan on the ground that they would lose their independence; ultimately compromises were reached, however, so that by most standards the new British plan provides a working arrangement which combines both the qualities of which Lord Dawson spoke. It is based on three principles: health services should be free and available to everyone, patients should have a free choice of doctors, and doctors should be free to have both public and private practices.

### **THE PROVISIONS OF THE ACT**

The practical means for carrying out national health service include nationalization of all hospitals and either payment to all participating doctors of a fixed annual sum of £300, plus a fee for each patient treated, or payment of a higher capitation fee and no additional sum, the doctor making the choice between the two methods. Normally doctors have between 2,000 and 3,000 patients on their lists, though some have considerably more. Capitation fees vary between areas, and allowances are made for mileage payments in rural areas, for staff duties in hospitals, and so forth. Medical and dental clinics and health centers are provided under the direction of local health authorities and of executive councils nominated by local practitioners, local government authorities, and the Minister of Health. Thus some services are under decentralized control. Patients are at liberty to select the doctor or hospital they wish to go to, and may have whatever specialized attention is recommended. Patients must now pay a proportion of the cost of false teeth, spectacles, and

wigs but, apart from this, drugs and medical, dental, and hospital care are free. Yet it is probably true, as someone has suggested, that the "obstinate desire of upper income classes to pay fees may prove to be as long-lived in medicine as in education!"

An important reason why many people, in fact, criticize the Health Service and prefer to be treated as private (and therefore paying) patients is that under the plan doctors cannot give home service except in cases of serious illness, and so there are, inevitably, long waiting periods in doctors' offices. Indeed, it is probably true that for a long time to come medical care—because it is now available to so many more people—will suffer in quality. There is also some concern in Great Britain for the future of the general practitioner, since the best returns from the scheme go to the specialists who perform operations in the hospitals, and the pressure of work on the general practitioner forces him to send the more lucrative cases to such specialists. There are excellent government-sponsored research facilities, however, which help to maintain standards of treatment and training, and this suggests that as the number of doctors and hospitals more nearly approaches the need, the standard of care will similarly rise.

As in education, the ultimate justification for this comprehensive service is the belief that it makes an essential contribution to the community as a whole. In the 1930's, at any given time, 800,000 people in Great Britain were normally incapacitated by ill-health. To cut this number by even a quarter would be to restore one-fifth of a million people to productive activity. The new emphasis is on maintenance of good health rather than recovery from bad health. The success of the new program must be judged in the long run in terms of this objective.

### III. HOUSING, AND TOWN AND COUNTRY PLANNING

Social welfare involves not only "mind and body," but also "estate." Inadequate housing and overcrowded cities are two of Great Britain's major problems. Beveridge believed housing to be the most urgent and important domestic issue because it reflected the greatest social and

economic inequalities and therefore provided the greatest opportunity for raising the standard of living. Moreover, as he pointed out, good housing is an indispensable foundation for health, efficiency, and education. But housing in Great Britain is a twofold problem: building in itself, and town and country planning, so that slums and "black areas" may be replaced by well-designed communities.

#### *Subsidized Housing*

The problem is being attacked in both ways: by subsidized housing, and by far-reaching plans for town and country development. In housing, the pre-war policy of making local authorities share with the national government in the payment of subsidies has been followed since World War II to ensure a thrifty use of funds. This policy has been coupled with the more controversial program of limiting aid to houses built under the direction of local authorities. Many people believe that even though local authorities employ private builders for their construction work, there would be more incentive if private building were also subsidized. That the need for houses is great is indicated by the fact that the one and a half million built between 1945 and 1950 only made up for the losses by bombing and the lack of building during the war. Thus housing remains a constant issue.

#### *Town and Country Planning*

Far more radical is the measure for town and country planning which was introduced to the House of Commons on January 29, 1947, as "the most comprehensive and far-reaching planning measure which has ever been placed before this House." Under this Act, in fact, all forms of land development throughout Great Britain are controlled, including town building, factory sites, and the future of agricultural land. Many of the demands on British land are conflicting, though each has its justification. Agricultural production is vital to British food supplies, forestry is necessary for timber reserves, town developments are desirable to draw people away from overcrowded areas, factories are requisite to the expansion of industry. Town and country planning is intended "to secure a proper bal-

ance between the competing demands for land, so that all the land of the country is used in the best interests of the whole people," a consideration of special importance in the small, densely populated British Isles.

The Town and Country Act of 1947 builds on an earlier measure passed in 1944 by the Coalition Government, but more particularly on a series of comprehensive and searching reports (*The Barlow Report*, *The Uthwatt Report*, and *The Control of Land Use*) which indicated the need for national planning of land use, decentralization of industry, and wider and simpler powers of purchase of land by local authorities. The Act empowers rural and town councils and, in some cases, joint planning boards to act as planning authorities under the general supervision of the Ministry of Local Government and Planning (which incorporates the former Ministry of Town and Country Planning). These authorities are responsible for preparing comprehensive development plans for their areas by 1952; in so doing they may divide the work among the lesser units of local government, but the latter do not have legal responsibilities of their own in this field, as they used to have. In order to make a comprehensive and generally unified program, the plans of the local areas are co-ordinated with the national plan and with the Board of Trade's proposals for the planned location of industry.

#### NATIONALIZING FUTURE LAND DEVELOPMENTS

To carry out these plans, the measure provides far-reaching powers for compulsory purchase of land and for altering or removing buildings. Moreover, no factories or houses may be built henceforth without the permission of the appropriate agency. Further, if the value of privately owned land is increased by developments which are made with the consent of the planning authorities, charges amounting to 75 per cent of the new value are collected by a Central Land Board. In line with the general practice of providing compensation for private property which is nationalized, the government set aside an over-all sum of £300 million for a final settlement of all claims for the land and rights which it acquires. In the future, however, the government, contrary to its custom in the past, will not compensate private owners if it

refuses them permission for building developments.

Of all the measures falling in the field of social welfare, the provisions for nationalizing future land developments met the greatest opposition. The Conservatives fought many of the provisions of the Act, and many landlords took a grave view of its consequences. In fact, the compensation and development charge has proved restrictive, and not always fair. Moreover, although few people in Great Britain deny the necessity for planning the use of its limited land resources, many are fearful that local authorities will not be adequate to their responsibilities, that plans will be made on the basis of past experience and not future prospects, and that too sweeping changes will be made without adequate foresight. It is equally possible that the program will remain negative rather than positive, that is, will concentrate on preserving agricultural land, or beauty spots, rather than on developing the new towns about which there has been so much publicity but on which not a great deal has yet been done, partly because they are so costly. Only time can tell, in fact, whether town and country planning will put into practice the revolutionary implications of its legislation.

#### IV. THE COST OF SOCIAL SECURITY

How do the British finance a "national minimum standard" for everyone? Since much of the plan is based on insurance, about half its cost is met through direct contributions. The other half is met through general taxation. In essence, therefore, the social welfare program involves a vast redistribution of income in Great Britain, resulting in a far greater equalization of real income in that country than exists in the United States or, perhaps, in any other industrialized country.

Thus, whereas before World War II, 61 per cent of Great Britain's income went to the property-owning classes and salaried workers, while 37 per cent went to wage earners, by 1950, these proportions had shifted so that the former two groups received barely 50 per cent of the national income after payment of taxes, while wage earners received 47 per cent (3 per cent went in

pay to the armed forces). This redistribution has come largely through taxation, for the British are the most highly taxed people in the world outside the Iron Curtain. Before rearmament placed an additional drain on British resources, just over 40 per cent of the country's earnings were being taken by the Treasury (as compared with 36 per cent surrendered in the war year of 1943), about half of this going into social services and into subsidies to keep down the cost of basic foods. Since 1945, the cost of social services has doubled, the largest expenditures being for health service and retirement pensions. Thus redistribution operates in two ways: through aid to those in need because of age, illness, unemployment, loss of the wage earner, and so forth, and through steeply graduated rates (rising to 97½ per cent at the top) which ensure that no one keeps more than about £6,000 after taxes have been paid. Moreover, whereas before World War II there were 6,500 people in Great Britain who had this amount left after taxes (because of supertaxes this required the income of an American millionaire), in 1949 there were only 86, and £6,000 was worth only half what it was before the war.

### *Is a New Society Emerging?*

It is still too early to say exactly what effects the changes in education, social welfare, and redistribution of income will have on the structure of British society. Visitors to Great Britain are rather surprised to find how normal the "old country" seems to be, despite the changes about which they have read. But it would be more surprising if the naturally quiet and conservative British had changed significantly in manners or in customs. Five or ten years hence, when the measures may have had an opportunity to affect wide strata of society, their consequences may be more conspicuous.

Certainly the changes have revolutionary implications. While the working class is about 20 per cent better off than before World War II, the income of the middle classes has fallen between 15 and 20 per cent. It is this class which traditionally has produced the leaders in industry, the civil service, and at the bar, as well as in art, music, and literature. It is this group which has in the past staffed the great voluntary associ-

ations, and which, for the most part, has no longer the leisure to do so. Yet if the new educational opportunities are used by all groups in the community, a new "middle" class will come into being, a class less steeped in tradition, perhaps, but not necessarily less intelligent or less devoted to the service of the community. Much will depend, then, on the quality of education and the sense of responsibility inculcated in these new groups.

What can be expected is that the character of the professional groups which are recruited from the universities will change. The predominance of the public schools, and of Oxford and Cambridge, is already lessening in the civil service. The legal profession and ultimately the judges will be affected if the Inns of Court draw future barristers from a wider social and economic group. These are only a few illustrations of what is likely to happen.

Moreover, if poverty could be made to disappear from British life, that in itself would be a revolution. Low standards of health due to poor housing and poor nutrition have drained the strength of the working class. Free health services coupled with national insurance may permit that class to take full advantage of the new educational opportunities.

There remains, however, a fundamental question: Can the British economy stand the strain of such extensive social services, particularly as the nation diverts a considerable portion of its resources into rearmament? The opposition to making slight limitations on social services in the interest of pressing forward rearmament lay behind Aneurin Bevan's resignation from the Labor Cabinet in 1951. But was this limitation a matter of choice, or of necessity? And would the need to limit social services have arisen even if rearmament had not become imperative?

There are arguments in plenty on both sides. Some believe that the high level of taxation required by the social security program threatens initiative and enterprise in industry and business. They argue also that full employment, coupled with social services, makes it difficult to maintain the labor mobility essential for efficient production. The result, they maintain, is to keep costs high at a time when Great Britain must strain every nerve to produce goods at competitive prices in the world market. Others point

out that social security helps to maintain the purchasing power of the masses, and this in turn aids full employment, without which the economy could never stand the drain of the social services. More important from the general point of view is the fact that labor, appreciative of social welfare programs, has shown admirable restraint in wage demands and in strikes. Thus strong as are the arguments on the other side, popular support for the welfare state should not be underestimated by Americans.

Regardless of whether the British are able to carry through their welfare programs in exactly the form they would wish, it remains true that they are making the most deliberate attempt in their history to remove want and insecurity, to give opportunities to all for education suited to their capacity, and to facilitate healthful conditions of life. Out of this program may come not only better conditions of living but a new spirit of equality and democracy which will detract in no way from cherished traditions of liberty.

## CHAPTER 10

# Great Britain and the World

Great Britain is not only a European country; it is also a world power. It is the head of the largest colonial empire in existence, consisting of about forty dependent colonies in various stages of development. It is the senior partner of a group of independent states including Canada, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon which are united by interest and a common acceptance of the Crown as the symbol of their unity in the Commonwealth of Nations. It has close relations with the United States and with Western European countries.

Yet the British position in international affairs has altered radically in recent years. Throughout much of the nineteenth century Great Britain held a dominant world position by virtue of industrial pre-eminence, financial power, and naval supremacy. Naval predominance rested not only on the two-power standard (that is, the principle that the British Navy should equal in size the combined strength of its two nearest rivals), but also on control of the European narrow seas—the Channel, the North Sea, the Mediterranean, and the Suez Canal, through which passed most of the commerce of the world—and of various strategic points of global importance, Gibraltar, the Cape of Good Hope, the Falkland Islands, and Singapore. The security of Great Britain's home islands, the protection and development of its overseas possessions, and the maintenance of its trade were amply secured by these means. Although it was an era of rising national self-consciousness in Europe and of striking developments in New World countries like the United States, it was also a period of comparative peace, a period which with some reason has been called the time of the "Pax Britannica."

### I. CHANGES IN GREAT BRITAIN'S INTERNATIONAL POSITION

Today Great Britain's changed position in world affairs has resulted from its loss of primacy in the three fields of industry, finance, and naval power. Industrial leadership had been possible because Great Britain developed the techniques and plants for manufacturing earlier than other countries. But today Britain is handicapped in competition with countries like the United States, Germany, and the Soviet Union because she is much less richly endowed in natural resources, and because she has been slow in adopting mass production methods. As for finance, two World Wars have taken a heavy toll of overseas investments, reserves, and capital. New York is now the major financial center in the world, though no single place exercises the same control or maintains the same financial stability as London once achieved. Finally, Great Britain's one-time naval supremacy gave place to naval equality with the United States after World War I. Since World War II the British Navy has been considerably weaker than the American Navy, though far stronger than any other navy.

### *Economic Problems*

The loss of leadership, however, is less serious than other considerations. It is true that new economic and social programs aim to improve the British productive mechanism and to make the home market relatively more important in total British production by protecting British agriculture and increasing the purchasing power of lower income groups through social security.



As a result of this development, Great Britain is moving in the direction of all other industrial countries in depending on home consumption to absorb a major part of its productivity. But at all times, the British are forced by their lack of natural resources to import a good deal of food and such raw materials as oil, copper, tin, aluminum, rubber, cotton, and fertilizers—imports which formerly cost about one-fifth of the national income. In the past more than a third of these imports were paid for by so-called “invisible exports,” such as investment income, shipping earnings, and banking and insurance receipts. Heavy losses in the British merchant marine and liquidation of overseas assets during World War II means that considerably less than half the pre-war amount can be secured in the future from these sources. Hence imports must in the future be paid for almost entirely by exports.

This situation explains the intensity of the “Battle for Exports.” It explains, too, the hesitancy with which the British have met American proposals for freer trade and currency. Dislocation of British industry during the war and its need for up-to-date machinery mean that an assured export trade, particularly in competition with the vast productivity of the United States, is a long time off.

### ***Vulnerability to Attack***

Equally serious is the British defensive position. The “Battle of Britain” disclosed the island’s vulnerability to attack. The Allied invasion of France from across the Channel showed all too clearly that an attack launched on England from the Continent might have equal success. It is now being said that in an atomic war the British Isles would be indefensible. Questions can also be raised about the adequacy of British naval and air strength to defend the communication lines of an “Empire bound together by the sea lanes.” The key transit route through the Middle East—the Suez Canal—is in danger from Egyptian nationalist aspirations, while the British have suffered staggering losses through the expropriation of their oil holdings in Iran.

Yet despite these difficulties, the British still

have great external sources of strength: the dependent Empire, the Commonwealth, and British relations with the United States and with Western Europe. These need to be analyzed before a full picture of the British position can be drawn.

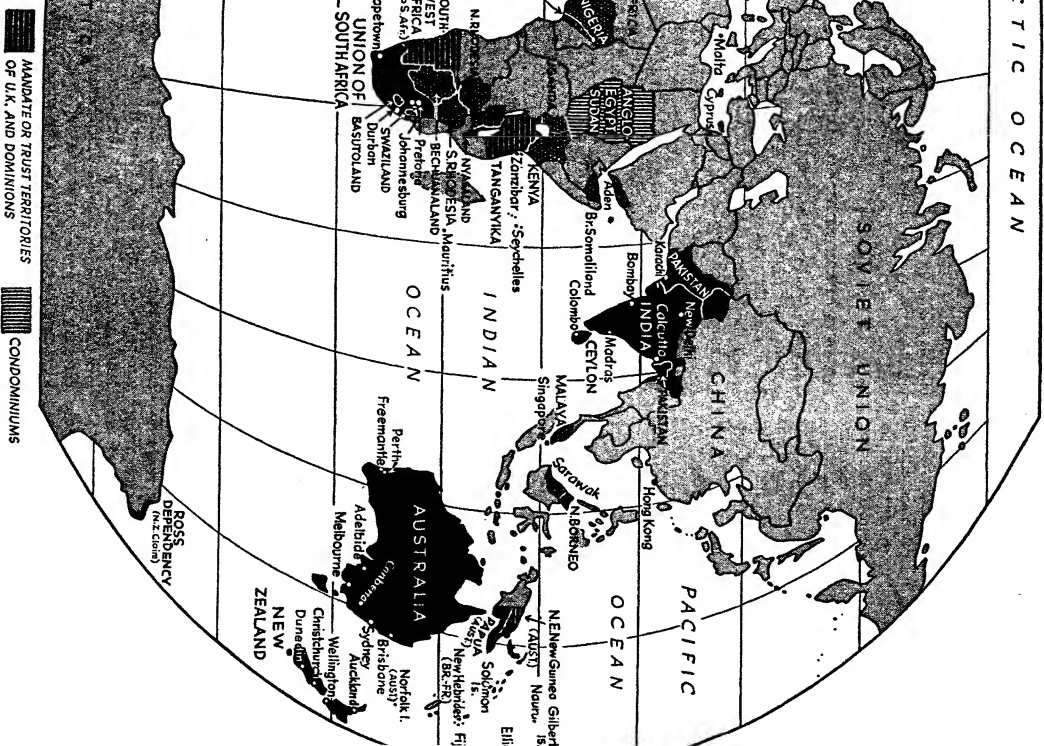
## **II. THE BRITISH EMPIRE**

The word “empire” has different connotations to an American and an Englishman. An American thinks the word means exploitation to the disadvantage of the colonial group. In the light of his own history, the American believes freedom to be a goal in itself.

The British, in contrast, more often associate “empire” with development. Many of them are proud of their imperial record. They emphasize the importance of good government and of the peaceful conditions under law which they have established. They maintain that their aim is “to guide colonial people along the road to self-government within the framework of the British Empire.” In the light of existing conditions, however, they believe that each colony must be considered individually and developed in terms of its problems and potentialities, not in accordance with a fixed pattern or timetable.

British possessions are widely scattered throughout the world: in the West Indies and South America, the Western Pacific, Southwest Asia, East and West Africa, and the Mediterranean. They differ almost as widely in characteristics. The Mediterranean and West Indian colonies, St. Helena, the Falkland Islands, and Seychelles are European in culture, language (they speak either English or French), religion, and industry. Malaya and Hong Kong have Asiatic civilizations and are going through a stage of industrial development similar to that of India and China. The African and Pacific territories, inhabited mainly by peoples of primitive culture, are the most difficult to develop politically. In some of these colonies the desire of European settlers for self-government conflicts with the British government’s insistence on maintaining control until the natives become ready to share in representative government.

# WEALTH AND EMPIRE



### *The Units of the Empire*

The units of the colonial empire can be classified roughly as crown colonies, protectorates, and territories under mandate or trusteeship. *Crown colonies* are British possessions which have been acquired by conquest or cession. *Protectorates* are not, strictly speaking, British possessions, but states which have accepted the protection of the British government, which controls their external relations while continuing to recognize the headship of the native rulers. The Indian native states were protectorates until 1947, after which they faced the choice of joining India or Pakistan. The Federation of Malaya is also a protectorate, and there are a number of protectorates in Africa, like Uganda.

*Territories under trusteeship* are former German or Turkish possessions which were acquired after World War I under the League of Nations mandate system, and have now been placed under the United Nations trusteeship system. These territories are governed as colonies, but a yearly report must be submitted to the Trusteeship Council, and United Nations investigating commissions may be sent to them to inquire into conditions. Great Britain's trust territories are Tanganyika, the Cameroons, and Togoland; Australia and New Zealand also have trust territories, and South Africa has a mandate, South-West Africa, which it has not placed under trusteeship.

### *Colonial Government*

In colonial government ultimate responsibility remains in the hands of the British government in London, where the Colonial Office exercises general administrative supervision. However, the actual government of a colony is in the hands of the Governor, who is appointed by the Colonial Secretary. The most important administrative work in a colony is generally done by members of the British Colonial Service, who may serve any place throughout the colonial empire but locally are under the authority of the Governor.

The degree to which the Governor exercises authority in a particular colony depends on its particular constitutional position. In some few places, mostly strategic colonies like Gibraltar,

the Governor legislates alone, under the direct supervision of the Colonial Office. As a rule, however, the Governor is assisted by an Executive Council and a Legislative Assembly. The members of the Executive Council are usually nominated by the Governor from among British officials and, sometimes, prominent natives. The legislative body often includes members nominated by the Governor as well as those elected by the local inhabitants.

### THE SIGNS OF CONSTITUTIONAL PROGRESS

Constitutional progress is marked by the extension of the franchise, the increase in the number of elected representatives, and the degree to which the Governor accepts the advice of the popularly elected legislature. Bermuda, the Bahamas, and the Barbados, for example, have long had the same form of government which was common in the American colonies before the Revolution: a fully elected House of Assembly and a nominated Executive Council. In 1943 Jamaica became the first British colony populated by people of predominantly African descent to receive universal suffrage and a fully elected lower house. In addition, half the members of the Executive Council in Jamaica are elected by the lower house and serve as ministers of certain departments. In 1951 the Gold Coast became the first African colony to have a Cabinet composed almost exclusively of elected native members. The people of other crown colonies have also been given more opportunity recently for popular participation in government.

Parallel with this development has been the lessening of independent action by the Governor. The traditional "reserve" powers of the Governor in a crown colony are those of the *veto* and the *power of certification*. Under his power of veto, the Governor may use his discretion in determining whether to assent to a bill passed by the legislature, to withhold his assent, or to reserve the measure "for His Majesty's pleasure," which means securing the advice of the Colonial Office. Under the power of certification, a Governor has the authority to give the force of law to a bill which he considers necessary for good government but which the legislature has refused to pass, or has passed with amendments of which he does not approve. As a particular colony approaches nearer to self-

government, the use of these "reserve" powers may be made conditional upon the approval of the Executive Council or voluntarily restricted to matters of the very greatest importance. In Bermuda or the Barbados, for example, the power of veto is used very sparingly.

When the point is reached where the Governor invariably acts on the advice of the popularly elected legislature except in certain subjects, *responsible government* has been achieved. Malta had received responsible government in most matters of internal concern before World War II. Southern Rhodesia also has full self-government by its white population in most fields, but the British government still retains ultimate control of its native policy and external relations.

When full self-government has been attained in all external as well as internal affairs, the term *Dominion status*, or membership in the Commonwealth, is used to designate a position of partnership with Great Britain similar to that possessed by Canada, Australia, New Zealand, and South Africa (see p. 215). The British hold out the prospect of ultimate Dominion status for all colonies. That the promise is sincere was demonstrated when India and Pakistan became Dominions in August 1947, and Ceylon in February 1948. In contrast, Burma preferred to separate from Great Britain rather than become a Dominion, and in January 1948 became the first territory to leave the British Empire-Commonwealth since the American Revolution.

### Colonial Economic Policies

Advances towards self-government in the colonial empire bear close relation to the economic development of its parts. Until recently, the British have been slower to promote economic than political developments in the colonies. Under the "Old Colonial System" colonies were expected to supply the deficiencies of the mother country and to obtain their imported requirements in return. When this system broke down after the American Revolution, and more particularly when Great Britain introduced free trade in 1846, economic *laissez faire* became characteristic of colonial economic policies. Combined with private enterprise, *laissez faire* led to excessive specialization, or monoculture, in many colonial territories. Even as late as 1936,

all but 2 per cent of Gambia's exports were groundnuts (or as Americans say, peanuts), and all but 20 per cent of Uganda's were cotton. And exports were as high as four-fifths of total output. When demand ceased or slackened, extreme poverty and squalor resulted. Over a period of time unlimited free enterprise provided no better results for the colonies than rigid government regulation.

After 1926 strict economic *laissez faire* was abandoned. Tentative efforts were made to guide non-white colonies along the path of self-government, and programs of health and education, limited development of secondary manufactures, and policies of social welfare were introduced. In 1929 the Colonial Development Fund was established and £4 million allocated for the development of colonial agriculture and industry. But the theory behind such development remained unchanged: aid to the colonies should bear direct dividends in promoting British commerce and industry. Moreover, though encouraged, social services were restricted to those which a colony could manage out of its own resources.

### THE NEW PROGRAM OF COLONIAL DEVELOPMENT

The present stage of colonial policy was inaugurated, surprisingly enough, a few months after the outbreak of war. The Colonial Development and Welfare Act of 1940 introduced the radically new principles of making money available for large-scale colonial projects and for meeting recurrent expenditures on services like education, health, housing, and agriculture. "It is by economic development," said the Colonial Secretary, "that colonies will be placed in a position to devote their resources, to the maximum extent possible, to the provision of those government and other services which the interests of their people demand." This declaration of intention was reinforced by a second law in 1945, providing for the expenditure of £120 million over a period of ten years, and still a third in 1951 increasing the amount to £140 million. To this the colonies themselves have added about £180 million.

This money is used for education, research, and assistance to the colonies at key points of developmental programs, with the hope that

this assistance will generate economic activity and help to raise the productivity of labor. Some of the most spectacular projects, like the groundnuts scheme in Tanganyika and the huge poultry plan in Gambia, have been notably unsuccessful. But many of the smaller projects have had excellent results, with the cumulative effect of pressing ahead the development of the colonies.

#### REGIONAL CO-OPERATION

In West Africa and the West Indies regional co-operation is making possible joint planning for larger areas and providing opportunities for developing the diversified economies essential for greater colonial prosperity. Even more striking are the *regional advisory bodies*, which bring together a number of countries interested in a given area. The Caribbean Commission, on which Great Britain is participating with the United States, France, and the Netherlands, considers joint standards and programs for the various colonies in this area. Similar action is undertaken through the South Pacific Commission, organized on the initiative of Australia and New Zealand and bringing together, with them, the countries working on the Caribbean Commission.

#### THE BASIS OF THE NEW COLONIAL POLICY

Underlying the new British colonial policy exemplified by the Colonial Development and Welfare Acts are three concepts: the old imperialist policy of developing colonies for the interest of the mother country must be replaced by a doctrine of partnership for mutual benefit; there must be planning for the development of individual colonies and for the Empire as a whole; and there should be long-term public capital investment in colonial areas. These concepts mark such a change in colonial policies as to be almost revolutionary.

Yet few policies have met such general support from all British parties. If the Empire is to live, it is agreed, it must be on a basis of continued development which will fit its territories for existence in a twentieth-century world. Sound economies are recognized to be an essential basis for political self-government. So, too, are improved educational standards. Some of the funds for development are being used, there-

fore, for programs of mass education in native languages, or, where English is used, of higher education.

There are several reasons why the British are launching such large-scale programs in the colonies at a time when they face serious financial and economic difficulties at home. In the first place, there is a strong sense of responsibility for the colonies and a desire to maintain prestige in the eyes of colonial peoples and of international public opinion. Secondly, there are long-range economic advantages to developing territories which yield valuable raw materials and food-stuffs, especially as problems of financial exchange do not appear in these areas. Thirdly, from a strategic point of view the colonies offer bases which help to give the British Navy its unrivaled mobility in many parts of the world. In general, too, its empire provides Great Britain with direct influence in every part of the world and thereby powerfully contributes to its world position.

#### EVALUATION

Whether British resources are adequate to solve colonial problems of poverty, overspecialization, and illiteracy is another question. In addition, some people in Great Britain itself feel that public interest in these problems is too slight and that the Colonial Service is too much bound by tradition for the new programs to be undertaken with the vigor essential for success. A further problem arises from the fact that the programs of economic and educational development are planned and carried out in the main by British experts, not by the colonial peoples themselves. It is true that Nigeria and Jamaica, for example, have Ten-Year Development Plans involving both imperial grants and local resources, but the Colonial Office maintains supervision of all allocations throughout the Empire. Moreover, the plans for colonial development accept the general framework of colonial society, emphasize primary products rather than industry, and do little to solve the basic problem of the relationship between European capital and native wage labor. For these reasons, the plans have not caught the imaginations of the colonial peoples to the degree which had been hoped.

Nonetheless, advances are being made and,

## THE COMPONENT PARTS OF THE BRITISH COMMONWEALTH AND EMPIRE

## 1. Sovereign States and Their Dependencies

Country	Area (sq. miles)	Population (1952 estimate)
United Kingdom of Great Britain and Northern Ireland	93,982	50,211,602
Canada (including Newfoundland)	3,845,144	13,845,000
Australia (Commonwealth of)	2,974,581	8,045,000
Australian Antarctic Territory (estimated)	2,472,000	
Norfolk Island—Colony	13	1,148
Papua—Colony	90,540	303,239
New Guinea—Trusteeship	93,000	1,000,000
Nauru—Trusteeship	8	3,162
New Zealand	103,939	1,935,082
Ross Dependency (estimated)	770,000	
Tokelau (Union) Island	4	1,416
Western Samoa—Trusteeship	1,133	78,155
South Africa (Union of)	472,494	11,391,949
South-West Africa—Mandate	317,725	360,040
India (Republic of) (approx.) (excluding states)	1,025,990	295,549,404
Pakistan (approx.)	360,780	80,000,000
Ceylon	25,332	6,657,339
Total Sovereign States (excluding dependencies)	8,902,242	467,636,792
Southern Rhodesia—A self-governing Colony	150,333	2,158,350

## 2. Territories Administered Through the Commonwealth Relations Office

Country	Form of Government	Land Area (sq. miles)	Population (1952 estimate)
High Commission Territories			
Basutoland	Colony	11,716	555,390
Bechuanaland	Protectorate	275,000	294,020
Swaziland	Protectorate	6,704	184,473

## 3. British Dependent Territories Administered Through the Colonial Office

Region and Territory	Form of Government	Land Area (sq. miles)	Population (1952 estimate)
East Africa			
Kenya	Colony and Protectorate *	219,730	5,406,000
Tanganyika	Trusteeship	342,706	7,478,000
Uganda	Protectorate	80,301	5,050,000
Somaliland (British)	Protectorate	68,000	500,000
Zanzibar and Pemba	Protectorate	1,020	269,000
Central Africa			
Northern Rhodesia	Protectorate	282,323	1,866,000
Nyasaland	Protectorate	37,928	2,349,000
West Africa			
Cameroons (British)	Trusteeship	34,081	1,027,000
Gambia	Colony and Protectorate *	4,033	268,000
Gold Coast	Colony and Protectorate *	78,803	3,734,386
Nigeria	Colony and Protectorate *	338,593	23,972,000
Sierra Leone	Colony and Protectorate *	27,925	1,880,000
Togoland (British)	Trusteeship	13,040	383,614
Total, African Colonies		1,972,236	57,376,233
Far East			
Brunei	Protected State	2,226	42,000
Hong Kong	Colony	391	2,260,000
Malaya, Federation of	Protectorate	50,690	5,227,000
North Borneo (including Labuan)	Colony	29,387	344,000
Sarawak	Colony	47,071	550,000
Singapore	Colony	286	1,016,500
Total, Far East		130,051	9,439,500

Region and Territory	Form of Government	Land Area (sq. miles)	Population (1952 estimate)
Indian Ocean			
Aden	Colony and Protectorate *	112,080	731,003
Mauritius	Colony	809	475,000
Seychelles	Colony	157	35,000
Maldives Islands	Protected State	115	93,000
Total, Indian Ocean		113,161	1,334,000
Mediterranean			
Cyprus	Colony	3,572	485,000
Gibraltar	Colony	2½	25,000
Malta	Internally self-governing Colony	122	311,000
Total, Mediterranean		3,696¼	821,000
Atlantic Ocean			
Falkland Islands (excluding Dependencies)	Colony	4,618	2,300
St. Helena	Colony	47	4,800
Ascension	Dependencies of St. Helena	34	170
Tristan da Cunha Group		38	250
Total, Atlantic Ocean		4,737	7,520
West Indies and the Americas			
Bahamas	Colony	4,404	77,000
Barbados	Colony	166	205,000
Bermuda	Colony	21	37,000
British Guiana	Colony	83,000	408,000
British Honduras	Colony	8,867	65,000
Jamaica	Colony	4,411	1,374,000
Cayman Islands	Dependencies of Jamaica	93	6,800
Turks and Caicos Islands		202	6,500
Leeward Islands			
Antigua	Colony	171	44,000
St. Christopher-Nevis	Colony	153	47,000
Montserrat	Colony	32	13,500
Virgin Islands	Colony	67	5,600
Trinidad and Tobago	Colony	1,980	611,000
Windward Islands			
Grenada	Colony	133	75,000
St. Vincent	Colony	150	66,000
St. Lucia	Colony	233	76,000
Dominica	Colony	305	51,000
Total, West Indies and the Americas		104,388	3,168,400
Western Pacific			
British Solomon Islands	Protectorate	14,600	90,000
Fiji	Colony	7,036	281,000
Gilbert and Ellice Islands	Colony	375	37,000
Tonga	Protected State	269	46,000
Pitcairn Island	Colony	2	120
Total, Western Pacific		22,282	454,120

\* Adjoining areas administered by the same Government.

## 4. Condominiums

Territory	Joint Administrators	Land Area (sq. miles)	Population (1952 estimate)
Anglo-Egyptian Sudan *	Britain and Egypt	967,500	8,309,663
New Hebrides	Britain and France	5,700	48,538
Canton and Enderbury Islands	Britain and U.S.A.		
Total, Condominiums		973,200	8,358,201

\* Administered through the Foreign Office.

Grand Total, British Commonwealth and Empire 15,970,416¼ 550,341,510

despite the magnitude of colonial problems, the British are pressing ahead systematically with the economic and political development of the Empire. Responsible members of the major parties have emphasized the importance of the Empire to Great Britain and have asserted their belief that Great Britain has the experience to make its present policy a success. They also believe that if Great Britain helps its colonial peoples to become capable of self-government, there will be rich dividends in the future through their continued economic and political co-operation within or outside the British Empire-Commonwealth.

### III. THE COMMONWEALTH OF NATIONS<sup>1</sup>

Many Americans question the value, or at least the justification, of an empire in modern times; but few criticize, though many do not understand, the Commonwealth relationship. The Commonwealth of Nations is in fact a remarkable and unique international grouping. Other countries like France, Holland, and even the United States are colonial powers and are also seeking to advance their colonies along the road to self-government. But only Great Britain has been able to maintain close, continuing relations with former colonies which have become independent both in theory and in practice. Moreover, apart from the importance of its historical development, the Commonwealth of Nations offers an example of close co-operation between countries of equal status but widely different strength. It is this fact which has often made observers speak of the Commonwealth as a model for international co-operation.

The Commonwealth of Nations consists of Great Britain and those former members of the British Empire which have acquired full control over every aspect of their internal and external policies but choose to retain a special relation-

ship with Great Britain and other members of the Commonwealth. The relationship was developed historically by Canada, Australia, New Zealand, and South Africa,<sup>2</sup> and was recently extended to India, Pakistan (the Moslem part of the Indian subcontinent), and Ceylon. In a time when the international trend has been towards nationalism and separatism, these countries of widely differing geographical position, size, natural environment, racial composition, and political power, have retained close political and economic relations within the Commonwealth of Nations.

*Canada* is a country larger than the United States. Its people are drawn from diverse racial stocks: more than a third of its nearly fourteen million inhabitants are French-speaking, while nearly one-fifth are of recent Continental origin. Sprawled across the northern part of North America, Canada is a country of such great natural resources that it has become an important industrial as well as agricultural country. Over a long period of time it has bought more from the United States than any other country except Great Britain, and sold more to it. During World War II it became the world's fourth trading nation. Since August 1940 it has added defensive arrangements to its harmonious political relations with the United States, sharing strategic planning under the Ogdensburg Agreement for the Permanent Joint Defense Board.

Deep in the southwest Pacific lie Australia and New Zealand. *Australia*, which is a continent in itself, is as large as the United States

<sup>2</sup> *Eire*, or Ireland, has also been a member of the Commonwealth though never a particularly interested or co-operative one. Dominion status was forced on Ireland at the moment of its formal separation from Great Britain in 1921; the Irish always felt it unsuitable for what was itself "a mother country." From 1936 on, Ireland's relations with the Commonwealth were governed by the External Relations Act by which that country, although using the forms of a republic in its internal affairs, used the name of the King in its external relations. In 1948, the External Affairs Act was repealed, and Ireland announced its intention of formally leaving the Commonwealth. At the same time, Ireland was eager to retain the special privileges which it had enjoyed as a member of the Commonwealth and, as a result of a series of meetings with Commonwealth leaders, it was decided that Ireland because of its contiguous position to Great Britain could not only continue to have the same rights for Irish citizens in Commonwealth countries as before (see p. 220), but also enjoy the advantages of imperial preference. It may be noted that Burma also participates in imperial preference though it decided not to enter the Commonwealth when it graduated from colonial status.

<sup>1</sup> The older name "British Commonwealth of Nations" has generally been replaced by "Commonwealth of Nations" since 1949 when it was formally recognized that the accession of the Asian Dominions meant that the proportion of British within the Commonwealth was, in fact, small. French-Canadians and Afrikaners have always resented the prefix "British." It is still largely used in Great Britain, however, and also in Australia and New Zealand.



and has a population of over seven and a half million people almost entirely of British descent. Where the predominant characteristic of Canada's position is its proximity to the United States, that of Australia is its nearness to the coast of Asia. Australians have had a sense of deep concern ever since Japan became a major power in the Far East, and their fears of invasion were almost realized in 1941 when Japanese shells fell on Darwin, its most northerly port. Since then Australians have never relaxed their efforts for a major share in decisions affecting the Pacific. Like Canada, Australia is becoming an industrial country, but both Dominions are also dependent on their exports of primary products. Indeed, each of the original overseas members of the Commonwealth has one particular product on which its prosperity rests. What wheat is to Canada, wool is to Australia, mutton to New Zealand, and gold to South Africa.

Though Australia and *New Zealand* are often grouped together, there are twelve hundred miles of ocean between them, a fact which has led New Zealand to feel more isolated from Asia than does Australia. New Zealand also has closer ties to Great Britain than has Australia, both because New Zealand is dependent on Great Britain for the overwhelming proportion of its trade and because the nearly two million New Zealanders feel a special sense of kinship to the "mother country." But though usually New Zealand follows closely the British lead in international affairs, it has not hesitated to make radical experiments in internal affairs. Indeed, both the Pacific members of the Commonwealth have had Labor governments in power. Australia's Labor Party has been the predominant political influence in that country since 1908; New Zealand's Labor Party came into office in 1935. Both were succeeded by liberal-conservative administrations in 1949. Both countries have long been pioneers in social and economic legislation and have provided models for some of Great Britain's current social and economic developments. The Beveridge Plan, for example, made use of the experience of New Zealand's comprehensive social security plan of 1938, which covers all exigencies, including medical care. Both Australia and New Zealand also have

almost a half century of experience with compulsory arbitration of wage disputes.

*South Africa*, at the southern tip of Africa, was built, like Canada, on the foundation of two European peoples, of whom those of Dutch-German-French extraction (the Afrikaners, as they call themselves) outnumber the English. But South Africa has a far more difficult racial problem than Canada, for the two and a half million South Africans of European origin are greatly outnumbered by the nine million non-Europeans of three distinct groups: nearly eight million natives, or Bantu; one million Colored (a distinctive racial amalgam of African and East Indian peoples with some European blood); and a quarter million Indians, including both Hindus and Moslems. The great wealth of South Africa is in its gold and diamond mines, whose prosperity depends on their vast consolidated resources, high world prices, and a great reservoir of cheap colored labor. The Europeans of South Africa never forget that they are among the scant number of white people who have made a permanent home on the continent of Africa. A minority in their own country and flanked by the millions of "Black Africa," they are determined to maintain their superiority at home, and, if possible, to extend their influence over the southern half of Africa.

The three newer members of the Commonwealth—India, Pakistan, and Ceylon—differ radically from the older members in racial composition, religion, and social structure. Their peoples are Asian in stock, and they have rich and distinctive cultures—Hindu, Moslem, and Buddhist—that in some respects antedate that of Western Europe, from which the older Dominions draw. But perhaps the most significant difference between the older and newer Dominions is that the former are typically middle class countries which grew to maturity in the era of liberal capitalism, while the latter have virtually no middle class, the overwhelming mass of their people being illiterate peasants, all too close to the edge of subsistence. It is true that there are in all three of the Asian Dominions intelligent, highly trained leaders who have absorbed the best of Western culture and interrelated it with their own tradition, and that these leaders (though both intellectually and politically often violently anti-British in the past) cherish the

legal and political institutions transplanted in their countries by the British. But where the older Dominions (with the possible exception of South Africa) provide almost ideal soil for the flourishing of parliamentary institutions, the Asian Dominions face overwhelming problems in establishing workable democratic systems of government and sound economic structures.

Next to China, *India* is the most populous country in the world, with nearly 350 million people in an area less than half the size of Australia, or of the United States. Moreover the population is increasing at the rate of about three million a year. Thus there is a tremendous drain on the limited food supplies produced by land which needs much more extensive irrigation in most parts, and drainage schemes in others. Though the population is predominantly Hindu (which means they consider all living things sacred, especially the cow, "the mother of mankind"), there are still about 50 million Moslems in India, and Prime Minister Nehru's aim is to develop "a secular democracy" not, as Hindu extremists would like, a Hindu state. The caste system, characteristic of Hindu society, is gradually lessening in rigidity, and "untouchability" (according to which the group below the caste, or occupational, divisions of Hindu society is excluded from contact with others, and forced to do the most unpleasant jobs), has been abolished by law, though it will take many years before both cease to have effect in India's myriad villages. Industrialization, which India seeks to encourage, will, of course, have a great social as well as economic effect in the long run, but so far seven out of ten workers depend on the land, and of the remainder only one in ten is in large scale industry like cotton textiles, jute, sugar, or iron and steel.

*Pakistan* is a country created in defiance of geography, for its two sections, East and West Pakistan, are separated by a thousand miles of Indian territory. Prior to partition in 1947, Pakistan was part of India, and it owes its existence as a separate state to the refusal of the predominantly Moslem areas of which it is composed to be dominated by India's Hindus. With more than eighty million people, Pakistan is the largest Moslem state in the world (the preamble to its Constitution pays allegiance to the principles of the Moslem religion, Islam), while its area is

about one-third that of India. More fortunate in some ways than its larger neighbor, Pakistan has ample food supplies for its people, and though it has almost no industry it has been relatively prosperous because of high world prices for its jute. At the same time, it has faced highly critical problems: the absorption of seven million refugees following partition; the establishment of a totally new government, and, in fact, the organization of a wholly new state; and very tense relations with India, particularly over Kashmir, formerly a British protectorate with its own native prince, which both India and Pakistan now claim.

*Ceylon*, a fertile tropical island within sight of the Indian mainland, is little more than a quarter the size of Great Britain, and has more than seven million people, predominantly Buddhist, though its vigorous Indian Tamil minority is Hindu. Ceylon specializes in three export crops, tea, rubber, and cocoanut. Like India, it does not raise enough food to supply its own people, nor has it any industry to speak of. Ceylon did not, however, have to undergo India's bitter struggle for independence; its constitutional progress was smooth, and there was no legacy of bitterness to overcome when it acquired Dominion status in 1948. Alone among the overseas members of the Commonwealth, Ceylon has a formal mutual defense treaty with Great Britain under which the Royal Navy has rights in the port of Trincomalee.<sup>8</sup>

The strength of the Commonwealth is the strength of the relationship existing between these seven countries and Great Britain. To understand the present bonds uniting the Commonwealth, it is necessary to see how Canada, Australia, New Zealand, and South Africa passed from a position of dependence to one of equality of status with Great Britain without an intervening stage of separation. Equally it is necessary to see why India, Pakistan, and Ceylon chose to be members of the Commonwealth when they acquired independence of Great Britain. For the bonds of the Commonwealth come not only out of history but also out of present circumstance.

<sup>8</sup> Similar rights—but without formalization by treaty—are extended to the Royal Navy in Halifax and Esquimaux in Canada, Simonstown in South Africa, and in Australian and New Zealand ports. The Simonstown arrangement is embodied in a published agreement, though not a treaty.

### *The Evolution of "Dominion Status"*<sup>4</sup>

The characteristics of the modern Commonwealth were shaped by history. Canada, Australia, New Zealand, and South Africa were British "colonies of settlement." In Canada persons of British descent were for some time outnumbered by the original French settlers, and in South Africa, as indicated, they are still a minority as compared with the Afrikaners. (As we have seen, both people of British extraction and Afrikaners together are far outnumbered by the natives.) But in all these countries, British institutions and traditions have been a strong formative influence leading to a feeling of loyalty and common purpose with Great Britain, at least among those of British descent.

In its time of undisputed naval, economic, and financial dominance, Great Britain provided notable benefits for these areas. The British Navy (to which they contributed nothing except port facilities) ensured their defense. Free of the crippling burdens of armaments, the small populations of these huge areas could concentrate on developing their resources. Great Britain was their major market and source of capital.

But loyalty and material benefit would not have been enough to maintain the British connection if political aspirations had been disregarded. The reason the second British Empire did not go the way of the first British Empire,

which split asunder in the American War of Independence, was that a way was found to enable colonies to develop self-government without ceasing to be British. This way was called *responsible government* (see p. 209), according to which decisions on policy in most fields were made by locally elected representatives and were not overridden by the Governor and Colonial Office. When small scattered colonies were consolidated into the larger units of Canada, Australia, New Zealand, and South Africa, the constitutional right to determine their own policies was called "Dominion status."

From the first, this right covered all internal matters, including tariffs and immigration regulations. Before 1914 Great Britain maintained ultimate control of foreign relations, and in World War I it declared war for the Dominions as well as for the rest of the Empire. But the great wartime contributions freely made by Canada (which with only eight and a half million people had more soldiers killed than did the United States) and by Australia, New Zealand, and South Africa, justified their claims to independence of action in this sphere as well as in internal matters. There was no desire for separation. But ways had to be found for the Dominions to maintain their connection with Great Britain and at the same time pursue independent policies. Moreover traditional forms had to be brought into line with political realities.

In the inter-war period the problem was worked out step by step. The Dominions became separate members of the League of Nations. Equality of status was recognized in the Balfour Report of the Imperial Conference of 1926, which declared Great Britain and the Dominions to be "autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations." The Statute of Westminster, 1931, drafted after consideration by political leaders from all parts of the Commonwealth, brought legal forms into harmony with long existing constitutional conventions by opening the way for Dominion Parliaments to become formally supreme in their own jurisdictions.

Before 1931 it had been technically possible

<sup>4</sup> The name "Dominion" was first used at the time of Canada's Confederation in 1867, when its provinces were bound into a federal union. There was reluctance to call the new country the "Kingdom" of Canada lest it disturb the republican sensibilities of the United States! The dilemma was solved when one of the "Fathers of Confederation" read in his Bible the phrase, "Thy dominion shall stretch from sea to sea." The appropriateness of this to Canada's geographical position was apparent. Though "Dominion" is not a formal part of the title of Canada, the term has been adopted generally in referring to any of the self-governing overseas members of the Commonwealth, and occasionally, since the Balfour Report of 1926, to all its members. It should be noted that the term "Dominion" has taken its meaning from whatever status Canada or Australia possessed at a given time and thus never had a fixed connotation which limited their development to full independence. Because the term "Dominion" is often thought by foreigners to indicate inferiority of status, there has been a move, however, to eliminate it. "Do not call them 'Dominions,'" said Mackenzie King, Prime Minister of Canada, in 1938, "as if they were half-fledged nestlings . . . call them by their names of Canada, Australia and South Africa." Except for New Zealand, "Dominion" is not an official part of the name of any of these countries. But as a collective term for the members of the Commonwealth outside of Great Britain, "Dominions" is still in common use.

for the British Parliament to pass laws having effect within the Dominions as well as the rest of the Empire and for the British government to disallow legislation passed by a Dominion legislature. In practice neither power had been used for a long time. But there were many British laws which had been passed at earlier dates and still had effect in the Dominions.

#### THE STATUTE OF WESTMINSTER, 1931

The Statute of Westminster declares that no British law shall henceforth have effect in a Dominion except on request of that Dominion, that British laws already having effect in a Dominion can be repealed by the legislature of that Dominion, and that no power of disallowance of Dominion statutes inheres in the British government. Moreover, Dominion legislation thereafter had extraterritorial effect, meaning that it can be enforced outside the particular country; for example, over its own merchant shipping.

The Statute of Westminster is a legal landmark in the history of the Commonwealth. The members of the Commonwealth themselves knew that informal constitutional arrangements had long approximated the legal situation inaugurated by the Statute. But in the eyes of the outside world the Statute of Westminster is the Magna Charta of the Commonwealth.

Not all parts of the Commonwealth welcomed the Statute of Westminster with equal enthusiasm. Eire and South Africa, both with a strong interest in legal forms, adopted it immediately. Canada did likewise, though only after provisions had been inserted at the insistence of the provinces (the Canadian equivalent of American states) to ensure that the Act could not be used to change the balance of the federal system without their consent. But Australia and New Zealand were more reluctant to bring the Statute of Westminster into effect for their countries lest it should suggest that there was any change in their feeling of closeness to Great Britain. Australia finally adopted the Statute of Westminster in 1943 and New Zealand in 1948. The Asian Dominions inherited it automatically.

#### ABOLISHING APPEALS TO THE PRIVY COUNCIL

One of the most striking of the changes instituted under the full grant of powers made to Dominion legislatures by the Statute of West-

minster has been the abolition of appeals to the Judicial Committee of the Privy Council (see p. 187). Traditionally the Privy Council has been the final court of appeal for all British subjects outside Great Britain, its position resting on an inherent prerogative which has existed since the earliest days of colonial government. From the first, the Australian constitution forbade appeals to the Privy Council in constitutional cases, and very few other types of cases have been appealed. Appeals are also rare from South Africa. But appeals from the other parts of the Commonwealth were frequent until Eire abolished all appeals in 1933 and Canada abolished appeals in criminal cases the same year.

When in 1939 Canada also abolished appeal in civil cases, the Province of Ontario, fearing the effect on federal-provincial relations, protested, and the case was carried to the Privy Council itself. But as in the earlier instance, the Privy Council unanimously upheld the right to abolish appeals, stating that "It would be alien to the spirit with which the preamble to the Statute of Westminster was instinct to concede anything less than the widest amplitude of power to the Dominion Legislature."

Even under the Statute of Westminster there is no uniformity of practice among the members of the Commonwealth. But what anomalies remain are due to individual choice. They could be changed at any moment if the country concerned wished to do so.

#### INDEPENDENT POLICIES AND ULTIMATE UNITY

During the inter-war period, legal and constitutional issues within the Commonwealth were solved quite satisfactorily. It was less easy to evolve a workable basis for policy which would harmonize the strictly limited interests of individual Dominions with the world-wide commitments of Great Britain. The basis finally reached combined a constant flow of information between the different parts of the Commonwealth, plus much informal consultation, with ultimate freedom of action on the part of each individual member. But such freedom of action was limited in practice by the recognition that, should trouble arise, only popular policies would be supported by other members of the Commonwealth. In the 1920's, for instance, Canada and South Africa disassociated themselves from

British Near East policies and at all times were less ready for formal machinery of co-operation or for commitments to Great Britain than were Australia and New Zealand. But from 1937 on the threat of Germany and Japan drew the members of the Commonwealth together. When war broke out in September 1939 Canada, Australia, New Zealand, and South Africa by their own acts entered the conflict in support of Great Britain, and in opposition to aggression.

At the end of the war three alternatives faced the Commonwealth. In the light of the weakness of Great Britain, as compared with the United States or the Soviet Union, Lord Halifax suggested that only a closer union of Canada, Australia, New Zealand, and South Africa with Great Britain and the dependent Empire would enable the British Commonwealth-Empire to take its place with the "super-powers." Others foresaw that industrial expansion in Canada and Australia and the strategic ties which had developed between the United States and Canada, Australia, and New Zealand might lead to a breakup of the Commonwealth. But both unification and separation were rejected in favor of maintaining the loose and flexible Commonwealth connection. The British Commonwealth went forward into the post-war period with the same combination of independent policies and ultimate unity which distinguished it before.

#### THE COMMONWEALTH EXPANDS

Few developments have been more surprising, however, than the fact that the Commonwealth not only held its own but expanded after World War II; that instead of separating from Great Britain after its long struggle for independence ("*swaraj*"), India chose deliberately to stay in the Commonwealth. It is true that on granting independence in August 1947 to India and Pakistan, Great Britain stipulated that these two countries must be members of the Commonwealth for one year. Thereafter, however, they were fully free to choose separation; and it was only after long and serious debate that, despite its intention of establishing a republican constitution, India formally decided in April 1949 to remain a member of the Commonwealth. "We join the Commonwealth obviously because we think it is beneficial to us and to other causes in the world that we wish to advance," Pandit

Nehru told the Constituent Assembly in New Delhi in June 1949 and received an overwhelming vote in support of his policy. Though neither Pakistan nor Ceylon have found it necessary to make such a formal declaration of intention (partly because they have had no constitutional problem, like India's decision to become a republic), they are just as firmly members of the Commonwealth.

#### Commonwealth Institutions

The Commonwealth has remarkably few common institutions. The most obvious is the Crown, the great symbol of unity of the Commonwealth. Though India is now a republic, it too accepts the Crown "as a symbol of the free association" of the independent member nations of the Commonwealth and that, as such, the King is "the Head of the Commonwealth." For the others, the Crown is not only a symbol of unity but a formal part of their governmental system, as it is in Great Britain. This fact was given dramatic illustration through the visits of King George VI to overseas parts of the Commonwealth. When he visited Canada in 1939 and South Africa in 1947, for instance, the King acted in the same way as in Great Britain, opening Parliament, signing bills, and so forth. Only at such times is visible demonstration given of the fact that the British Crown is a multiple Crown, and that the King is King of Canada, King of Australia, and so forth, as well as King of Great Britain. But the fact that it is the same person in each case provides a bond of unity, particularly for those of British descent, whose force should not be underestimated. Moreover, under the Statute of Westminster, any change in the order of succession to the Crown must be accepted by the Dominions as well as by Great Britain (a procedure followed at the time of Edward VIII's abdication) so that in practice as well as in theory the Crown is a joint possession.

In each Dominion except India, the personal representative of the King is the *Governor-General*. Since 1926 the Governor-General has held the same constitutional relationship to the Prime Minister of the country in which he is serving as the King does to the Prime Minister in Great Britain. The office of Governor-General has thus become largely a titular one. Each Dominion

makes the nomination for its own Governor-General, and both South Africa and Australia have on occasion chosen their own citizens for the honor. Members of the Royal Family have also served in this capacity. In recent years Canada has had as Governor-General a distinguished author, John Buchan (or as he then became, Lord Tweedsmuir) and, immediately following the war, General Alexander, who won distinction in World War II for guiding the strategy of the African campaign.

The Commonwealth also has relatively little political machinery. It is indicative of the general informality of its relations that the Commonwealth's most important institution for formal exchange of views, the *Conference of Prime Ministers* (or the Imperial Conference as it used to be called) has no executive authority. As its name suggests, the Conference is a meeting of the Prime Ministers of Commonwealth countries, usually held at least once in four years, and much more frequently since World War II. From time to time it has also included representatives of countries, like Southern Rhodesia, which have not yet acquired full Commonwealth status. Conference resolutions have no legal effect until adopted by the individual countries, and the Conference of Prime Ministers is therefore a means of consultation rather than a formal organ for reaching decisions. But because of the basic willingness of Commonwealth countries to work together, Conference decisions actually have more influence than might be supposed from the fact that only the heads of major-party attend.

There are other institutions through which intra-Commonwealth relations are carried on, but they are generally *ad hoc* or operate in fields of little general significance; for instance, the Imperial War Graves Commission. The Committee of Imperial Defence, which used to co-ordinate British defensive strategy, was an organ of the British government, not of the Commonwealth. Representatives from Australia, New Zealand, and South Africa sometimes attended its sessions when matters affecting them were under consideration. But the committee was not re-established after World War II, being replaced by a Cabinet Committee (see p. 114), and such co-ordination of the defense measures of

Commonwealth countries as exists is now largely on a regional basis.

#### ARE THE CHANNELS FOR CONSULTATION ADEQUATE?

From time to time additions to the machinery of Commonwealth communication have been proposed. In 1944 Prime Minister Curtin of Australia, having in mind some of the unfortunate occasions during the war on which his country had learned of British strategic decisions through the newspapers, suggested establishing a permanent secretariat which would prepare, and further the exchange of, information for the Conferences of Prime Ministers. Even such a modest innovation, however, met with lack of enthusiasm by Canada and South Africa. Partly it was their desire to avoid anything in the nature of centralizing machinery (though Mr. Curtin's proposal had been in the interests of efficiency, not centralization). Partly it resulted from their satisfaction with existing arrangements, which Prime Minister King of Canada spoke of as the "continuous consultation of Cabinets," an informal, flexible means of maintaining contact which had been evolved by experience. Mr. King expressed this feeling cryptically during a speech to the British Parliament in May 1944, when he told of how he had once read on a tombstone the words, "I was well; I wished to be better; and here I am!"

Exchange of information and consultation between Commonwealth countries is in fact a continuous process. Every Commonwealth country sends to each of the others a High Commissioner who acts in the same capacity as an Ambassador except that contact with the government to which he is accredited is more informal and more continuous than is true of the representatives of foreign countries. In addition, a stream of information goes from the Commonwealth Relations Office direct to the Departments of External or Foreign Affairs of Canada, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon. There are also constant exchanges between "opposite numbers" in many other fields of mutual interest, like social welfare, agriculture, and technology. On occasion, telephone communication makes it possible for Prime Ministers to consult directly. Recently United Nations meetings have offered excellent



opportunities for consultation, as League of Nations meetings used to.

### ***The Bonds of the Commonwealth***

It may well be asked: Why does the Commonwealth hold together? The machinery it has evolved for purposes of consultation does not bind individual members to a particular course of action. The symbol of a common Crown is not enough to determine policy.

It may also be asked, in the light of the frequency with which its members oppose each other in international conferences, whether the Commonwealth has any real value. That it is not an exclusive group is demonstrated by the close defensive arrangements existing between Canada and the United States. Why, then, does the Commonwealth continue to exist and what is its significance?

As a matter of fact, the very lack of exclusiveness is itself a source of strength to the Commonwealth. Membership in that body does not prevent a country from pursuing policies which are conducive to its particular interests. The only agreed limitation is that it shall notify the other members before it undertakes such action. Thus Commonwealth membership involves few sacrifices except in moments of supreme crisis. On the other hand, it provides a number of advantages both to Great Britain and to its partners.

#### **STRATEGIC TIES**

For Great Britain, the most important consideration is that twice in a generation the prompt and voluntary support of the Dominions has been a major element in a British struggle for survival. During the year from the fall of France to the Nazi attack on the Soviet Union, Canada was Great Britain's strongest ally.

For the strategic position of the Commonwealth at large, it is important to see to what extent it is both a North Atlantic and an Indian Ocean group. Since World War II, the defense of the North Atlantic has become an international responsibility (safeguarded by the North Atlantic Treaty Organization, see p. 223), and no longer, as before World War II, chiefly a British responsibility. It is in the Indian Ocean, with India, Pakistan, and Ceylon well centered,

Malaya, Australia and New Zealand on the east, and South, Central, and East Africa on the west that the Commonwealth and Empire retain their chief strategic significance. It is true that there are obvious weaknesses accruing from such facts as the concentration of both India and Pakistan on defensive measures against each other, and their reluctance to be associated with general Commonwealth defense plans. Moreover, all overseas parts of the Commonwealth are far more dependent on their own resources (and on American aid in case of attack) than in the past. Nonetheless, the Royal Navy and the Royal Air Force maintain lines of communication between the different parts of the Commonwealth, and there is substantial liaison between these bodies and the separate naval and air forces, particularly of the older Dominions.

#### **ECONOMIC RELATIONS**

Compared to the relatively informal arrangements in the strategic sphere, intra-Commonwealth economic relations are close and well integrated. In the first place, except for Canada, whose dollar is linked to the American, all the members of the Commonwealth are part (and form by far the most important part) of the *sterling area*, that is, the area within which the pound sterling rather than the dollar is the principal unit of exchange. Thus currencies are convertible, trade flows freely between these countries, investment operates easily, and settlers or travelers can take very substantial sums of money with them, none of which is true as between these countries and the United States. Moreover, sterling countries pool their dollar resources, which are banked in London and distributed from there according to the agreed needs for withdrawal. Striking evidence of joint action was provided in July 1945 when temporary international convertibility of the pound sterling threatened disaster, and the Finance Ministers of Commonwealth countries agreed to a 25 per cent reduction in dollar purchases to protect the position of sterling, and acted jointly in instituting the cuts.

Following World War II, a particular problem (and to some extent, bond of unity) arose from the "*sterling balances*," funds amounting at their height to over £40 billion which were built up in London by overseas parts of the



Commonwealth through the sale of goods to Great Britain or for services provided during the war for which the British could not afford at that time to pay. Under similar circumstances, Canada sold goods to Britain through repatriating securities, and subsequently continued the flow of supplies, partly through outright gifts of money, and partly through a system of mutual aid which paralleled (and in proportion to population exceeded) American lend-lease. Other Commonwealth countries were not in so stable an economic position, and India, in particular, has drawn heavily on sterling balances since the war. This has placed considerable drain on British resources (since there is no return on these goods), and tempts British producers to seek the easy soft currency market rather than manufacture for dollar returns in the stiffly competitive market of the United States. But it has also meant that the British retained and even extended their traditional economic dominance in these markets.

Intra-Commonwealth trade has long been encouraged by *imperial preference* under which Commonwealth countries extend to each other lower tariff rates than "most-favored-nations" agreements provide. Americans insist that imperial preferences are discriminatory and a barrier to trade, but Commonwealth countries, particularly those which, like New Zealand, are so dependent on trade with Great Britain, insist on retaining them, at least until there is more assurance of easier entry for their goods into American markets. In any event, currency restrictions, import licenses, and the like make imperial preference much less important today than in the past.

The most striking development in intra-Commonwealth relations in the economic field is the *Colombo Plan*, sometimes called the "Commonwealth Point Four," under which economic aid and technical assistance for the Asian Dominions (and other countries of South-east Asia, if they decide to join) is undertaken by Commonwealth countries as a joint enterprise. On the basis of local development plans, the Commonwealth Consultative Committee (with representatives of Great Britain, Canada, Australia, New Zealand, India, Pakistan, and Ceylon) has drawn up a Six Year Development Program, beginning in 1951, designed to meet

the most urgent needs of the Commonwealth and Empire territories in South and South-east Asia. Though the emphasis is primarily on agriculture, to meet the desperate need for more food, the program also included the development in India, Pakistan, and Ceylon of hydro-electric power, irrigation works, and flood control on the pattern of the T.V.A. The cost of the six year project is estimated at £1,868 million, to be financed partly through sterling balances, partly through Commonwealth contributions, but also, it is hoped, partly by the International Bank of Reconstruction and Development, and American aid. To train and place the experts essential to the plan is the work of a Council for Technical Co-operation, with its headquarters in Colombo, Ceylon. Small enough to be effective yet sufficiently large to show results in terms of the most pressing needs of these countries, the Colombo Plan offers one of the best opportunities to convince the Asian masses of the advantages not only of Commonwealth membership but also of association with Western countries.

#### CITIZENSHIP

One of the historic advantages of being "British" has been the possession of a common nationality which opened the way for those from any part of the Commonwealth to travel freely in all other parts of the Commonwealth and Empire, and to gain the franchise and work permits more easily than was the case with citizens of foreign countries. Traditionally the United Kingdom has interpreted most generously the original common law ruling that anyone born "in the King's Dominions" is a natural born subject; in its Nationality Law of July 1948 it provides that any citizen of the United Kingdom, its colonies, or a country of the Commonwealth is a "British subject" or (some people objecting to the term "subject") "Commonwealth citizen," the terms being interchangeable. This status provides material advantages such as the right to enter or leave the country at any time, to qualify for the franchise, be a member of Parliament, or of the civil service (except in wartime). Most of the other Commonwealth countries, each of which has now similarly defined its citizenship rules by statute, grant some, although not such broad, privileges

to persons (excluding Asians and Africans) possessing the status of British subject or Commonwealth citizen.

### ***The Balance Sheet of the Commonwealth***

Most of the benefits of membership in the Commonwealth are mutual. All of them rest upon mutual understanding and willingness to work together for purposes recognized as common. The very flexibility of the arrangements makes them difficult for foreigners to understand and to evaluate; but flexibility and informality are at the heart of the success of the relationship, for they permit adjustment to circumstances and quiet behind-the-scenes negotiations which may yield rich returns without acerbating domestic or foreign feelings.

Non-exclusive as the Commonwealth relation is, it yet offers an inner circle of friends whose interest and support is the more welcome in times of profound international tension. This fact was influential in the decision of India and Pakistan to remain within the Commonwealth. Not only does this interest and support extend to internal problems (most obviously with the Colombo Plan); it means also that at international conferences these countries have a group (like the inter-American group, though relations are closer) on which they can always call, if not for votes, at least for exchange of views. Moreover, although the overseas parts of the Commonwealth have their own separate diplomatic services, they gain useful additional information from access to the material gathered by the world-wide facilities of the British Foreign Service. A further advantage is that they can make their points of view known through British representatives at meetings, like the Council of Foreign Ministers, with which they otherwise would have no direct contact. Perhaps most important of all is the balanced view made possible by frank and free discussions, discussions which countries like Canada feel have gained greatly in importance since 1947, because the presence of the Asian Dominions now provides an insight into Asian points of view to which the Commonwealth at large had not previously had direct access.

It used to be said that the British Empire-Commonwealth, including about one-quarter

of the people of the world, and covering one-quarter of the earth's surface, was one of the great forces for maintaining world peace. Since World War II, the Kashmir dispute between India and Pakistan, and the bitter attacks by India on South Africa for the treatment of South African Indians, have done something to contradict this boast. But even though Commonwealth countries, which traditionally never interfere in each other's affairs, have not been able to solve these difficult issues, they have done something to encourage direct negotiations between the parties to the disputes. That the issues are indeed complex is shown by the fact that the United Nations has been no more successful than the Commonwealth in finding an answer to these antagonisms.

Will the Commonwealth last? Prophets have foreseen its end before this, and been confounded. Will it retain the Asian Dominions? An astute Indian professor writes that this will depend on "the manner and speed with which the rest of the Commonwealth will react in its political, racial and economic policies to the aspirations and hopes as also the needs of the Asian Dominions." Beside this may be put Nehru's words: "It is good to keep a co-operative association going which might do good in this world." As in the past so in the future, the strength and cohesion of the Commonwealth is likely to depend on the contributions it makes to the interests and development of its members, and to their relations with the rest of the world.

## **IV. INTERNATIONAL RELATIONS**

The Commonwealth is the inner area of British international relations (considered broadly, not in a legalistic sense). But Great Britain's foreign policy must take into account the whole complex of its relations with all countries. Particularly important in its general picture of international relations are British relations with the United States, or more broadly with the Atlantic community, and also with what may be termed the European community outside the Iron Curtain.

The British had hoped at the end of World War II that they would not have to restrict their relations even to these three great groups. Their

aim was a universal one: to retain close relations with their wartime allies, in particular the United States and the Soviet Union, and at the same time to prevent too sharp a differentiation from developing between the Great Powers (among which Great Britain itself is somewhat precariously numbered) and the middle and smaller powers. The British hoped that Europe would be aided by the joint activities of the four major powers concerned with that area: the Soviet Union, the United States, Great Britain, and France. Though their natural alignment was with the United States and Western Europe, the British Labor government in particular believed that their friendliness toward socialism would facilitate working with the Soviet Union and thus aid four-power co-operation.

Almost as soon as the war was over, however, the British found themselves under pressure in the Eastern Mediterranean as the result of what *Cards on the Table*, an official pamphlet interpreting Labor's foreign policy, called "a sustained and violent offensive against Britain by her Russian ally" to drive the British out of their security zone in the interest of enlarging the Soviet security zone. In resisting this "offensive," with strong American support, and subsequently opposing other Soviet moves, which the British and the Americans agreed were "aggressive," the British gradually moved to a position of open opposition to Soviet policies.

Such a shift in policy did not pass unchallenged. Though supported by the Conservatives, the Labor government's opposition to Soviet policies was bitterly attacked in 1946 and 1947 by its own left-wing "rebels," the Keep Left group, who declared that the real danger to world peace was American economic imperialism. Extremists accused the Labor government of being "the 'stooges' of American imperialism" and of "openly and directly supporting an offensive of American big business against the Socialist economies of Eastern Europe." Other critics called on Great Britain to lead a "third force," made up of European countries which were both democratic and socialist, and which could pursue a policy independent of both the Soviet Union and the United States, and thus mediate between the extremes of Soviet communism and American capitalism. But the intransigence and aggressiveness of the Soviet

Union, not only in international relations, but also within the countries of Eastern Europe which it dominates, steadily disillusioned even those who had formerly been most sympathetic to that country.

In a world increasingly divided between the West and the Soviet spheres, the British still have no simple role to play. In one way, their position as a significant member of the three most important groups in the Western sphere—the Atlantic community, the European community, and the Commonwealth—provides them with an unparalleled opportunity to act as a center of unity. But this is only true so long as the policies of all three groups run in harmony; and the British have found considerable difficulty (and acquired much criticism thereby) in ensuring that the wheels of all three groups are intermeshed.

The predominant difficulty has been in regard to Great Britain's position in the European community, where it looks with distaste, as far as its own membership is concerned, on the political federalism favored by certain groups in the United States and Western European countries. Americans are inherently sympathetic to political federation for Western Europe, including Great Britain, both because of their own successful experiment and because they know how greatly political unification can aid economic integration. They would like to see Europe west of the Iron Curtain turned into a single trading area with all the stimulus which that would give to productivity. In France, Germany, and Italy, the sentiment for federation springs rather out of disillusionment with their national governments, partly because of the experiences with enemy occupations, partly because their party coalitions fail to inspire confidence. In contrast, a European government offers them hope of re-creating moral and political stability. Moreover, the French feel that Germany's growing power may be dangerous unless incorporated in a European federation.

The British approach to the issue is necessarily very different. A close and exclusive relation with Western Europe, such as would be involved in political federation, would cut Great Britain off from the Commonwealth and weaken its relationship with the United States. And while the British realize that there are

strong strategic and economic reasons for close relations with continental countries, they place still higher the intimate association with other Commonwealth countries which has paid such rich dividends in the past, and equally they prize more dearly the close working together with the United States which is at the heart of any Atlantic community.

In place of participating in any political federation in Europe, the British favor what Barbara Ward in *Policy for the West* calls "functional federalism." This involves close relations with other European countries in particular spheres of activity—strategic, economic, intellectual, and even social—to aid in the strengthening of Western Europe which is accepted as a primary British interest. Thus the British took the lead in organizing the plans for European self-help incorporated in the requests for the Marshall Plan; the British operate vigorously in the Organization for European Economic Co-operation, which is the opposite number in Europe of ECA (to secure greater integration of efforts, the United States and Canada were invited to join OEEC in 1950); and they participate in the European Payments Union, established in July 1950 as a clearing house for the debts and credits of all Marshall aid countries, which it is hoped will lead to a freer flow of trade and payments throughout non-Soviet-dominated Europe than since the period before the great depression. Similarly, Great Britain gave the lead to the Brussels Pact of 1948 by which France, the Benelux countries (Belgium, Holland, and Luxemburg), and itself pledged joint military action in case of attack and set up a single military headquarters. At the same time, these countries agreed to further co-operation in the economic, social, and cultural fields. That the British bungled so badly their approach to the Schuman Plan (see p. 415), which is not out of line with their concept of functional federalism, was, partly, uncommon political ineptitude and, partly, the result of France's explicit association of the plan with ultimate political federation. But this blunder should not be allowed to overshadow the very real contributions the British have made to closer European co-operation.

What the British feel, however, and with real justification, is that European co-operation, no

matter on what kind of basis, cannot of itself solve the problems of that area, whether economic or strategic. The European Payments Union, with all its usefulness, depends ultimately on direct American support, and on continued dollar aid to Marshall aid countries to bridge "dollar gaps" as they arise. It is even truer that European countries of themselves could not hope to withstand an all-out Soviet attack.

It is recognition of these facts which led the United States to continue financial aid after the period when it was expected to terminate. Had the need for rearmament not interposed, it is possible that this aid could have ceased by 1952; under present circumstances, it cannot do so without dangerously jeopardizing the European economies it has done so much to strengthen. Even more striking, however, is the Atlantic Pact, signed in 1949, by which the United States and Canada associated themselves with the Brussels Treaty Powers and Norway, Denmark, Iceland, Portugal, and Italy in a vast scheme of mutual defense; in 1951 Greece and Turkey were added to this group. The North Atlantic Treaty Organization is now in more or less permanent session, organizing collective defenses against possible Soviet aggression. This development is fully in keeping with British objectives, for it brings together for common purposes most of the countries of the Atlantic and the European communities, and is viewed sympathetically by the members of the Commonwealth (Canada, it should be noted, is also a member of NATO).

This is not to say that all sources of friction between Great Britain and other European countries, and between Great Britain and the United States, have been ironed out. The difference in the American and British approaches to Communist China have provided fertile soil for bitterness and misunderstandings. Moreover, the strain put on the British economy by rearmament has led to criticisms of American policy as too provocative of the Soviet Union, and too insistent on sacrifices by other countries, criticisms voiced most pungently by Aneurin Bevan.

Yet despite such divergences and outbursts, there is a fundamental basis of common purposes which make British-American relations a

nucleus for the broadening co-operation between Western countries. The British concept of functional federalism, to some degree an outgrowth of its experience with the informal arrangements in the Commonwealth, offers opportunities for flexible evolution in terms of the needs and conditions of the time. In so far as the British can continue to work closely for mutual

advantage with the countries of the Commonwealth, Western Europe, and the United States, and at the same time stimulate the sense of identity of interest among the groups with which they are so intimately associated, they will not only make a great contribution to international co-operation but also maintain themselves as a powerful force in world affairs.

# Conclusion

The American who tries to evaluate British political institutions runs a double risk. Before he praises or condemns, he must remember that the two countries are so different that institutions which serve one might well be catastrophic in the other; he must also remember that it is possible for reasonable and democratic people to disagree about the qualities which are most important in a democracy. Is it more important that the majority should have its way or that a minority should not be oppressed? Is it better for government to be efficient or to be representative? If it is necessary to emphasize one or the other, is it preferable to have government by the people or government for the people?

To the person who accepts traditional American political values, there are three disturbing aspects to British government today: the continuing influence of the class system, the rigid discipline in political life, and the growing authority of the state.

## THE CLASS SYSTEM

Americans generally accept (if they do not always practice) the principle that "all men are created equal"; they are, therefore, disturbed by such things as the social snobbery centering around a royal court; the power of an unrepresentative and irresponsible House of Lords to delay legislation; the power of the King under certain critical, if exceptional, circumstances; the advantage enjoyed by the upper classes in recruitment for the civil service and the courts; the financial handicap which often prevents poorer citizens from holding local office; and the advantage which the expensiveness of legal proceedings gives to the wealthy.

On several of these counts, there are many English who are as deeply disturbed as any

American could be. The monarchy, it is true, has too great a hold on the popular imagination to be in serious danger of modification; but many Englishmen would point out that social snobbery, class distinctions, and financial advantages are not unknown in the United States, even without the encouragement of a royal court. The House of Lords, moreover, has been deprived of much of its power of delay, and the attack on the political and economic manifestations of social inequality will probably continue to be more prominent in Great Britain than in the United States. It is even possible that British society may become, or perhaps has become, more equalitarian in fact than American society, though hardly in form.

## POLITICAL DISCIPLINE AND AUTHORITY

Many Englishmen see eye to eye with Americans on the evils of social inequality; but intelligent citizens of the two countries would undoubtedly be less likely to agree on the issue of party discipline and the subordination of the legislature to the executive. The ordinary American still likes to think of his representative as a man who is independent, who thinks for himself, who is more concerned with the desires of the people back home than with the demands of his party's leaders. And if the life of democracy is discussion and free participation in political action, then a political system which forces the representative to become something of an automaton, voting always as his leaders desire, seems to mean the death of the democratic spirit and system. Parliament itself loses its prestige and significance when debate is limited and important legislative decisions are made by the Cabinet.

To this charge there are two answers which

the Englishman might make. The first is that freedom of action and discussion is not nearly so extinct as many Americans (and some British critics) complain. Both major parties, in recent years, have had highly vocal "rebels" against party policy. And if it is true that the discipline is far more strict in Great Britain than in the United States, the Englishman might prefer to say that there is less political anarchy. Deadlock, irresponsibility, disunity, and incomprehensibility can be just as fatal to democracy as an excess of discipline.

To some extent the argument loses its point because the choice is not a rigid one between the defects of the two systems. It would be possible for Americans to introduce far more discipline in their political life without running any noticeable danger of making Congress a rubber stamp. And Parliament could offer considerably more independence and personal activity to the private member without incurring serious danger of anarchy.

One's judgment, in either case, will depend upon one's standards. The American will probably feel that unless the people and their representatives in Congress have an active part in molding legislation (and not simply in approving the plans of others) the qualities needed for self-government will atrophy. But many of the British will insist that it is more important for legislation desired by the people to be expertly framed and promptly passed than for Members of Parliament themselves to share in the making of less perfect laws. It is more usual for the American to be obsessed by the fear that political power will be abused (as is natural in a country where there are so many different types of minorities); and it is more usual for the Englishman to fear that excessive restrictions on power will permit a minority to obstruct the will of the majority of the people. Both countries, to be sure, succeed in enacting essential legislation, and both countries provide checks upon the abuse of power. But it is far easier for the British executive to win approval of its legislative proposals, whether good or bad. And it is far more difficult for the American executive to secure the approval of Congress even for proposals which have been expertly drawn and which have the support of a clear majority of the people.

## PREDOMINANCE OF THE STATE

The political consequences of the growth in state activity in Great Britain are still a subject for speculation. Both of the major British parties now accept the fact that there must be a considerable measure of governmental planning and direction of the economy, although the Conservatives still do not welcome extensive government ownership of the instruments of production and distribution. And both parties accept the responsibility of the government to promote a society which is prosperous, healthy, well-educated, and secure against the economic consequences of unemployment, ill health, and old age.

But the acceptance of such responsibilities has presented a certain dilemma to democracy. It seems clear that if democracy cannot provide such services, there is considerable danger that people may turn to those potential dictators of the Right or the Left who say they can. Yet the assumption of such responsibility calls for a tremendous expansion of government activity and for the concentration of enormous power in government hands. It also means the assumption of tasks so complicated and numerous that the ordinary citizen or Member of Parliament cannot possibly direct or even understand them; at most, he can judge whether or not he likes the consequences.

The triumph of Labor in the election of 1945 intensified a problem which would have existed under any circumstances. Two difficulties in particular have arisen in an acute form: If the government itself becomes administrator of a large part of the economy and employer of a large part of the working population, can it be prevented from using this power for partisan political purposes? And if certain people (for example, the miners or the doctors) should refuse to co-operate with those plans which the government considers essential to the well-being of the people as a whole, can they be compelled to do so without destroying the freedom essential to democracy?

The British already have faced both types of problem. As a guard against political partisanship, they have developed such devices as the public corporation. In dealing with the miners and the doctors they have used alternatives to



coercion: persuading, educating, and inspiring; removing grievances; inventing incentives; discovering acceptable compromises. But every extension of the state's activities, whether for the purposes of social welfare or national defense, raises anew the issue of the relations of the powerful state and the individual citizen.

In a sense, the fate of the British democracy will depend on its success in handling these problems. That there must be unrelenting strain and sacrifice is obvious, for Britain's economic difficulties can be met only by superhuman effort and by the voluntary acceptance, for a long time to come, of a policy of "austerity" and self-deprivation. Particularly in time of peace, it is this kind of continuous effort for rewards which are not immediately apparent which it is hardest for human beings to make. The question is

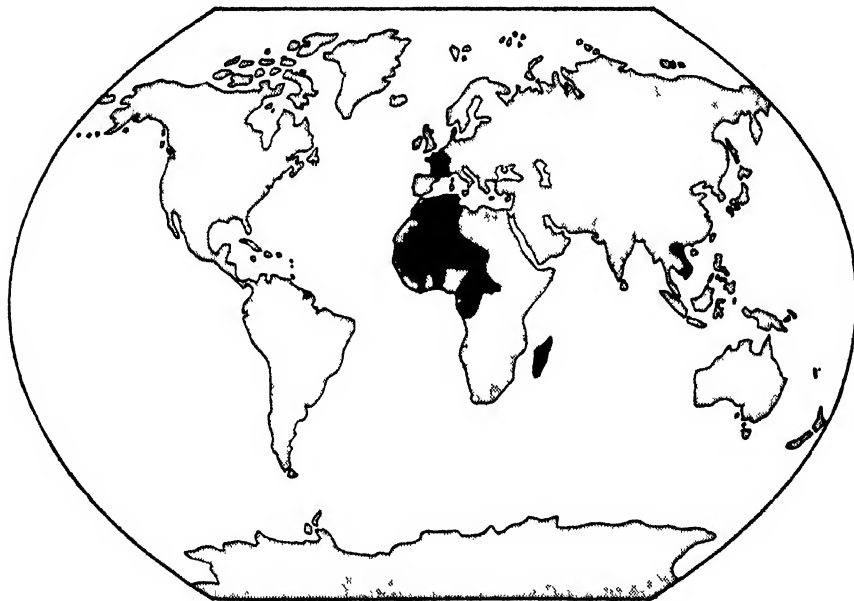
whether men and women can be persuaded rationally to make this sacrifice. The Soviet government, facing a similar situation, supplemented its rational appeals and its material rewards with the frank and unapologetic use of force and fear to stimulate production and to compel men to do types of work which they would otherwise not have done. But such a solution is far removed from the tradition of free government. The British have already demonstrated great capacities for disciplined and effective efforts towards recovery. The great test of British democracy in the next few years will be whether, under conditions of peculiar difficulty, involving rearmament as well as high social objectives, a free people can voluntarily make the sacrifices and endure the strain necessary for economic survival and world power.



## PART TWO

# THE GOVERNMENT OF FRANCE

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## CHAPTER 1

# French People and Politics

### I. THE POLITICAL CRISIS IN FRANCE

French politics suffers from a complication which is almost unknown in the United States and Great Britain: the existence of a fundamental disagreement over both the institutions of government and the principles which ought to guide it.

In the United States almost everyone is proud of the political heritage of the American Revolution, and both major parties uphold the system of government under the Constitution. The Bill of Rights, the separation of powers, the federal system, popular elections, and representative government command general support; and the American who does not honor the Declaration of Independence, accept the ideal of "government of the people, by the people, and for the people," celebrate the Fourth of July, and revere the memory of Washington, Jefferson, and Lincoln is rare enough to be an oddity. As the platitude has it (and it is deeply significant that such a sentiment can be platitudinous), we are all republicans, we are all democrats.

In Great Britain, too, the heritage of the Glorious Revolution of 1688 is accepted by both Conservatives and Labor; and if there is a sharper disagreement between the two parties on class and economic lines, both of them accept the principles of constitutional government and cabinet responsibility, both accept the monarchy, and both agree that the monarch should be a figurehead.

But in France no such agreement exists. On both the extreme Right and the extreme Left there are large and powerful groups which are profoundly hostile to existing institutions of French constitutional democracy, and the supporters of democracy are obliged to conduct a

war on two fronts against enemies whose only common characteristic is their determination to destroy their political opponents.

#### *Opponents on the Right*

On the Right, first of all, a strong minority, far from accepting the political heritage of the French Revolution of 1789, still thinks of that upheaval as a national disaster, an event which destroyed all that was best in the French political and intellectual tradition. The words of the great revolutionary slogan—Liberty, Equality, Fraternity—still are fighting words: during the government of Marshal Pétain (1940-1944) they were removed from public buildings and replaced by the new trinity of "work, family, and native land," while the very name of the French Republic was dropped in favor of "the French State." Unreconcilables refuse to celebrate the national holiday on July 14 (the anniversary of the Fall of the Bastille in 1789) and honor instead the feast day of Joan of Arc in May. The names of Voltaire, Rousseau, Marat, Robespierre, and Victor Hugo, whose portraits sometimes adorn the platforms of great republican rallies, are anathema to the Rightist extremists. And while in Great Britain the entire nation joins in honoring the great writers entombed in Westminster Abbey, in France the admission of a new member to the French Academy or the burial of an illustrious citizen in the Panthéon may be as much a matter of politics as of art.

Today very few of the men on the extreme Right still hope or desire to restore the ancient French monarchy,<sup>1</sup> but a large number of them

<sup>1</sup> The permission voted in 1950 for the heirs of families which once ruled France to return from their enforced exile

(particularly among the wealthier classes) would gladly accept authoritarian government under a leader who, in the pattern of Marshal Pétain, would "maintain order," defend property, destroy the labor unions, and prevent the enactment of "socialist" legislation.

### *Opponents on the Left*

The Rightist extremists have their counterpart among those extreme Leftists who would just as readily accept an authoritarian government pledged to drastic social and economic change, and an entirely new political order.

Ever since the advent of the Industrial Revolution, a certain number of leaders and thinkers on the Left have maintained, either that political institutions were of no importance (as does a small contemporary anarchist movement), or that political institutions should merely subserve their economic and social purposes. With the success of the Russian Revolution, increasing numbers have accepted force and dictatorship as the means to advance the interests of the working class; and by the end of World War II, the Communist Party (whose founding had been inspired by the Russian Revolution) was able to command the support of more than one-quarter of the French electorate and, in the national election of 1951, as in certain earlier elections, to win more votes than any other party. Leaders of the Communist Party proclaim their desire to maintain a government which is republican in form and democratic in name; in fact, the Communist Party claims to be the true heir of the French Revolution and the sole supporter of its tradition. But the authoritarian internal organization of the party, its unreserved admiration for the Soviet dictatorship, and the frequency with which its "militants" resort to violence against political opponents make it clear that its conception of democracy is very different from that which has been traditional in France. Moreover, party policy and statements have systematically followed the lead of Moscow, and Maurice Thorez, the French Com-

munist leader, has declared that his party and all "sincere" democrats would never forcefully oppose the entry of the Red Army into France. Thus if the Communists come into power in France, they may not stop short of overthrowing the freedom of speech and the freedom of opposition which, in France as in Great Britain, have been an essential part of the political system, but might also yield the political independence of France in fact if not in form.

### *The Present Crisis*

In a sense, it is the tragedy of French democracy that the economic and social struggles growing out of the Industrial Revolution occurred before the country had reached agreement upon its political structure, and that it has been common for so large a part of the population to place its particular economic interests before its loyalty to the constitutional system. In Great Britain men may differ in their economic ideas as widely, let us say, as Winston Churchill and Aneurin Bevan, but the common acceptance of the same political institutions and procedures means that differences will be settled peacefully, within the constitutional structure. But in France the constitutional structure itself is, and perennially has been, an issue, and a large part of the population feels no obligation to subordinate personal interests to it.

Thus in France the whole political spectrum is different from that to which the British (or Americans) are accustomed. In Great Britain, a Churchill and a Bevan stand at opposite extremes of the spectrum, and very few people have political and economic views that do not fall somewhere in between. But if the British situation were like that in France, large sectors would be outside this span: millions of men far to the right of Mr. Churchill would be eager for an authoritarian form of government, and many millions of men well to the left of Mr. Bevan would openly support a Communist regime. Thus the parliamentary system itself would be safe only if Mr. Churchill's followers and Mr. Bevan's could sink their differences in order to carry on a double war against both the extreme Right and the extreme Left; elections would be fought on the issue of preserving democratic in-

is the best indication that no one fears a monarchical revival; even so, the Constitution (Article 44) specifically declares that "Members of the families that once reigned over France shall not be eligible for the Presidency of the Republic"; while their ineligibility for the lower chamber, decreed in 1865, still holds.

stitutions rather than on particular economic or social policies; and even then there might be some doubt as to whether all of the groups which now form the Conservative and Labor parties would constitute a majority of the British people.

To understand France today, however, it must be realized that the persistence and strength of the extremist Right and Left (so startling to the American or Briton) is no strange phenomenon, but the outcome of a fundamental lack of civic consciousness, a breakdown of community sense, which is evident at every level of French society. The crisis in France is not only a political and governmental crisis; it is also a crisis of morale. In the United States and Great Britain, political controversy can safely be carried on because there is so widespread an acceptance of common values and purposes; in the face of no less (perhaps more) difficult economic problems than those of France, the British have grimly accepted some of the highest taxation rates in the world (see p. 202), sent into export channels the goods that their own people crave, and shared in common sacrifices. In France, in contrast, villages have wallowed in a superabundance of food while the cities starved; the black market flourished in its richest excesses after the war; certain groups persistently evade taxation. The antidemocratic movements in France are the outcome rather than the cause of this profound lack of civic sense.

Something of the dislocation in French life can be attributed to the humiliating experiences of the Nazi occupation. The bitter division between collaborationists and anticollaborationists, between those who supported Pétain and those who opposed him, is still most deeply felt in France, ready to rush to the surface and poison the discussions on any issue. Nor can one overlook the effect on members of resistance groups of a way of life whose cardinal rules were dedication to a subversive underground movement, disobedience to official orders, disrespect of established authority, and suspicion of appeals for community efforts.

But again it must be said that the occupation brought to the fore, rather than created, France's deepseated resentments and divisions. Behind them is the lack of adjustment of the French bourgeoisie, or middle class, to the pattern of

life demanded by large scale industrialization. The basic stability of France lies in its rigid, traditional, social structure; no less is this its fundamental weakness. For the resistance of the bourgeoisie to the changes demanded by a new organization of economic life led it to a policy of negativism, a policy so centered on the concept of order that it rejected the necessities of economic development, and thus drove to an equal bitterness the working classes whose conditions of life inevitably were tied up with the industrial system. Thus, in contrast to British conservatism which, in the spirit of Edmund Burke (see p. 33), learned the secret that change is necessary to preserve, the French bourgeoisie continued to oppose any change in the traditional ways of life—characterized by small scale enterprise, individualistic in method and nature, with the closely knit family grouping reflected in economic as well as social life—and to yield as little as possible to the industrial-scientific society characteristic of the twentieth century. And as society changed despite them, the most rigid among the bourgeoisie lost any sense of loyalty to the evolving society, while the working class could hardly develop a sense of loyalty to a system apparently dominated by the bourgeoisie.

These attitudes, intensified by the fierce antagonisms of the period of resistance under the occupation, are the inheritance of the Fourth Republic. In this atmosphere, its statesmen must seek to engender confidence in the Republic and in France itself, to solve pressing social and economic problems, and to secure national support for their efforts. At the same time, much of their energies must necessarily go into such essentially negative activities as curbing sabotage and preventing Communist-led and inspired campaigns from disrupting the economy or leading to violence.

Under the circumstances, two profound dangers exist. There is, in the first place, the danger that the staunchly democratic group will split so deeply over economic policy that no effective action can be taken; that the extremist groups will hamstring what action is attempted; and that the people, in desperation, will turn to one or the other of the extremist groups to lead it out of economic chaos. And there is, in the sec-



ond place, the danger that fear of one extreme will lead people to accept the other extreme—those who dread Communism turning to the Rightist authoritarians and those who hate reaction accepting Communism. In this sense, the strength of either extreme may feed the strength of the other. There is, to use the popular phrase, a process of polarization, in which people who prefer democracy nevertheless choose the undemocratic extreme they least dislike in order to oppose most vigorously the extreme they dislike more, in which both extremes proclaim that there is no middle way and that one must be with them or against them.

In the coming months and years the great test of French democracy will be its ability to stop this polarization, to prove that parliamentary institutions are adequate not only to the task of preventing violence and disorder, but also to the task of carrying out positive policies which command the support of the great majority of Frenchmen. Survival will in itself be an achievement; but to meet the challenge of the extremist groups successfully, French democracy will need to create the sense of shared ideals and purposes without which no constitutional system can function effectively.

### *France and the World*

The French ability to meet this test will have a critical influence far beyond the borders of France itself. For many centuries *la grande nation* has been the most influential country of the Western European continent. Its literature, philosophy, and political ideas have affected the thinking of civilized men everywhere. The triumph of revolutionary France in the late eighteenth century carried democratic ideals to much of the rest of Europe; the defeat of democracy in France would almost certainly mean democracy's destruction in those Continental countries in which it still survives. France today no longer has the physical power of earlier centuries, but it is impossible to imagine any sort of order in Western Europe in which France takes no leading part. In this sense, then, the future of democracy in Europe as a whole depends upon the outcome of the conflict of political principles in France.

## II. THE LAND AND THE PEOPLE

### *The Land*

#### GEOGRAPHICAL INFLUENCES

In comparison with the United States or the Soviet Union, France is small in area; yet it is larger than any other western or central European country. Its territory of 213,000 square miles (somewhat smaller than the state of Texas but almost two and one-half times the size of Great Britain) contains a population of forty-two million people (in comparison with Great Britain's fifty million). Its climate is temperate, its landscape for the most part is gentle if varied, and its beauty and fertility have long been proverbial.

A variety of geographical influences has contributed to French national unity. At its farthest extremes, the country is not much more than six hundred miles across, and most of France lies within a few hours' train travel from Paris. With the exception of the Vosges Mountains (which cut Alsace from the rest of France) there are no barriers dividing one section of the country from another. On the contrary, the great river systems—the Seine, the Loire, the Rhône, the Gironde, the Garonne—link the coast with the interior regions and the different parts of the interior with one another. Certain uplands exist, as in Brittany and the *Massif Central* of south-central France, but they do not interfere with an easy pattern of communication from south to north and west to east.

France's sense of national unity has also been encouraged by the existence of natural boundaries which cut it off from other lands. Of its six sides, three are bounded by water (the English Channel on the north, the Atlantic Ocean on the west, and the Mediterranean Sea on the south) and two by mountains (the Pyrenees in the south and the Alps and Jura in the east). Only on the northeastern frontier is there an absence of natural barriers, and French history for centuries has been dominated by the struggle, first to establish the northeastern boundary and then to maintain it against attack. On this frontier France has had to meet invasion three times in the last eighty years; and today the fear of future aggression continues to be of primary



importance in the conduct of French foreign policy.

#### REGIONAL VARIATIONS

Despite its compactness, France is a land of many distinct regions. In part it shares the characteristics of the Atlantic world, in part those of the Mediterranean countries, and in part those of the lands of the mid-continent. Its valleys, uplands, and plains mark off one district from another and, in contrast to England, encourage the survival of differences in costume, dialect, way of life, and even, according to the popular stereotypes, in character. The dark-haired son of the *Midi* (the south of France) is noted for his eloquence, his excitability, his religious indifference, and his political radicalism, while the blonder Norman is known for his reticence, shrewdness, and conservatism, the Breton for his mystical piety, and the Lorrainer for his steadfast patriotism. Where a political map of England reveals for the most part a cleavage between industrial and agricultural areas and between the poorer and the more prosperous sections of large cities, a political map of France shows a truly regional division between the conservatism of the West and the East (a different kind of conservatism in each) and the radicalism of the North and the South (each also of a particular kind).<sup>2</sup>

### The People

#### NATIONALITY

As in Great Britain, the earliest inhabitants of France of whom we have historical record (the Gauls) were Celts. As early as 600 B.C., however, the Greeks had founded a colony at Marseilles on the Mediterranean coast, and in the second and first centuries B.C. this region (whose modern name, Provence, is derived from the Latin word *provincia*) opened the way first to Roman influence and then to Roman conquest of all Gaul. But in contrast to Great Britain, where the Roman influence was neither profound nor permanent, Roman influence on France was both powerful and continuous. The Gallic peoples adjusted themselves to their conquerors with exceptional ease,

and the impact of Roman language and law still is apparent. As a result, it is common to speak of France as a "Latin" country.

Early in the fifth century A.D. France was invaded and conquered by a succession of Germanic tribes, the Visigoths, the Burgundians, and the Franks, but the Teutonic conquerors did not, as in England, destroy the earlier way of life. The fighting in France between Celt and Teuton was less bitter than in England, and particularly in the south of France the conquerors tended to accept the language, law, and religion of the people they conquered.

In the centuries which followed there were few infiltrations or additions of new blood. The Northmen who invaded Normandy quickly adopted the language and institutions of the natives, and only Brittany (which offered a haven to Celtic refugees from the British Isles) and Alsace (which was not acquired until the seventeenth century) contain a significant number of people who speak a language other than French, although there is a small Basque-speaking minority in the South and a small Flemish-speaking minority in the North. With the possible exception of Alsace (where the inhabitants, while generally loyal to France, continue to speak a Germanic dialect and at times press for a certain degree of autonomy), there is no problem of national minorities: the conflict between people of different nationality which has complicated the political life of countries like Belgium, Czechoslovakia, and the Soviet Union, has no counterpart in France.

#### POPULATION PROBLEMS

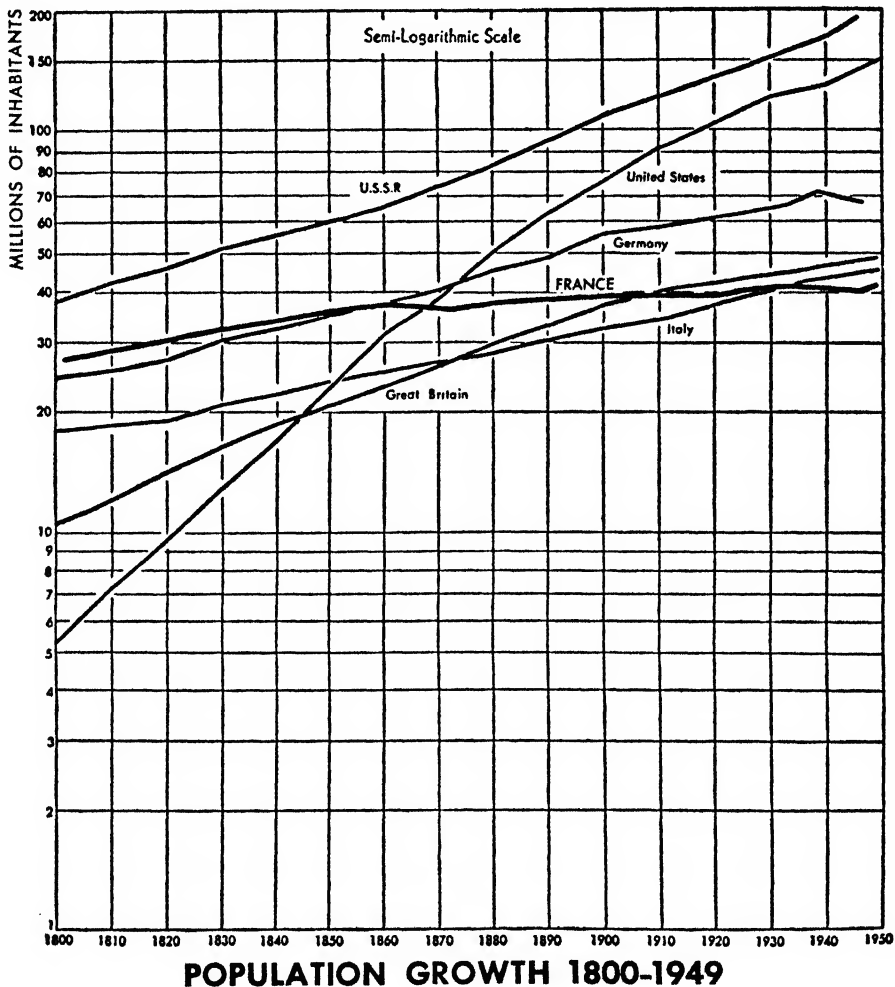
But if there is no problem of national minorities, there is in France a problem of population, or rather lack of population, which has been a serious cause for national concern for nearly two centuries. In the days of Napoleon, France was the most populous of European countries outside of Russia. It was outstripped by Germany in 1870, by Great Britain at about the turn of the century, and even by Italy in 1930. Where in 1800, France included about 15 per cent of the population of Europe, in 1939, it had just over 7 per cent.

It is true that France's demographic decline is not absolute, but relative. Its population has continued to increase during the past century

<sup>2</sup> For the details of election geography, see p. 304.

and a half, but as the chart below shows, it failed to share in the phenomenal population increase which affected most of Europe and the United States. The particular cause for concern, however, was steady decline in the French birth rate throughout the nineteenth century, whether because of France's high level of material civilization, as some demographers believe, or because under the Civil Code all children have to share in family property including agricultural holdings, or for other reasons. Thus by 1890, 49 out of 87 departments were not maintaining their population levels; and the losses of World War I, which were not counterbalanced as in Germany or Italy by large num-

bers of young children and by a high birth rate, seemed a national catastrophe. To provide some compensation, France encouraged the immigration of foreign workers in the inter-war period, including many Poles and Italians; in the census of 1946, there were 1,670,000 foreigners in the country (the French make naturalization much more difficult than it is in the United States). Nonetheless, population figures remained alarmingly low. To translate them into military terms: France, which had the same number of men of military age as Germany at the time of the Franco-Prussian War (1870), had less than half as many at the outbreak of World War II.



From "Population and Population Trends in Modern France," by Dudley Kirk, p. 314, in *Modern France: Problems of the Third and Fourth Republics*, Edward Mead Earle, ed., Princeton University Press.

In the light of this development, which seemed to indicate an over-all population decline for France in the future, it is the more remarkable that following World War II the French population suddenly began to increase more rapidly than ever before in its recorded history, and at a rate considerably higher than that of several of its neighbors. Immigration continued to count, but far less so than in the inter-war period. The significant cause for growth in the French population, in fact, is the increase in the birth rate, the highest between 1947 and 1950 that the country had ever known, the highest of any Western European country except Spain. Partly this is due to the postponement of marriages during the war and the depression of the 1930s. Positively, it seems to have resulted from conditions of full employment, from increased family allowances, and perhaps from what an analyst has called "an eclipse of classic individualism" in favor of the group values of the welfare state.

France's concern over population problems has been demonstrated by the establishment of a special Ministry, by setting up the world's foremost demographic institute, and by a spate of publications, predictions, and decrees, all aimed at stimulating population growth. In fact, however, while France may well retain something close to its present birth rate, and even reduce its death rate (e.g., from tuberculosis) its population density, particularly in relation to arable land, does not and will not approximate that of its more crowded neighbors, particularly Italy and Germany. Thus France must expect to remain subject to population pressures from the east and south-east, while at the same time there is no possibility of its regaining its hegemony in Europe. Nonetheless, if its postwar population trends continue, France may well develop a more flexible and promising population structure than it has enjoyed for a considerable time, one which will provide social and economic benefits at home, and the foundation for active leadership in Western European affairs.

#### RELIGION

France, traditionally "the eldest daughter of the Church," is an overwhelmingly Catholic country. Of its forty-two million inhabitants, thirty-

eight million are, in some degree, attached to the Roman Catholic faith, something less than a million are Protestant, a few tens of thousands are Jews, and the remainder frankly are atheists or freethinkers. Potentially, at least, there is a powerful basis for a political party promoting Catholic ideals and interests.

Yet if nine out of ten Frenchmen are Catholic in form, it is unlikely that more than three in ten are deeply devoted to the interests of the Church. Most Frenchmen are Catholic in the sense that many Americans are Protestant: they attend the great church festivals and they make use of the church for weddings, baptisms, and funerals. But they resent the interference of the Church in politics, and they are simultaneously both Catholic and anticlerical.

Nevertheless, and in great contrast to the United States and Great Britain where in recent generations religion has not constituted a political issue of major importance, the position of the Catholic Church in France has been a subject of bitter and perennial political controversy. Before the Revolution of 1789 the Church was closely allied with the monarchical regime. Its bishops were selected by the King, and the highest clergy were drawn from the aristocracy. The Church was grateful to the monarchy for its vigorous persecution of heresy (notably Protestantism) and religious and philosophical speculation; but this very persecution aroused the enmity of liberal intellectuals not only against the monarchy but against the Church as well. Voltaire's slogan *Ecrasez l'infâme* (Crush the infamous thing, superstition) became a favorite cry of revolutionary agitation; and although the majority of the lower clergy were in sympathy with the early aims of the French Revolution, the persecution subsequently suffered by the Church convinced its leaders more firmly than ever that religion and political liberalism were incompatible. When the Bourbon monarchy was restored in 1815, the Church became one of the bulwarks of its power. And throughout the nineteenth century it seemed to many people, both partisans and opponents of the Church, that no one could be both a devout Catholic and a good Republican.

Toward the end of the nineteenth century, under the influence of Pope Leo XIII, a large

number of French Catholics accepted (or "rallied to") the Republic. For a time the Dreyfus affair (p. 257) and the enactment of legislation separating church and state revived and intensified the earlier bitterness, but the patriotic service of the Church in World War I and the Church's abstinence, in the period between the wars, from overt political action offered hope that the issue would disappear from French politics.

Unfortunately, the advent of the Vichy government gave the issue new life. Many devout Catholics were active in the Resistance movement, but the government of Marshal Pétain bestowed special privileges upon the Church, and some of the highest of the Church's officials gave him their active support. To many staunch Republicans the Church seemed once again to have shown its fundamental kinship with reaction.

Today the relationship of the Catholic Church to French political life is quite complex. With the liberation of France, Catholic leaders of the Resistance formed a new party, the *Mouvement Républicain Populaire* (Popular Republican Movement) of whose devotion to democracy and social progress there could be no doubt, and in the first elections following the liberation certain leaders of the Church worked actively to unite the Catholic vote behind this party. Opponents of the Church suggested, however, that the Church's support of the M.R.P. was due less to a conversion to democratic socialism than to its conviction that this party offered the best rallying point against Communism. When large masses of the voters deserted the M.R.P. in order to support General de Gaulle's new *Rassemblement du Peuple Français* (Rally of the French People—see p. 293) such opponents were quick to proclaim that the Church was no more to be trusted than in the early days of the Republic. Yet it would be difficult to prove that the Catholic Church has officially supported the R.P.F.

The persistence and bitterness of the clerical issue has been one of the tragedies of French politics, for the religious division has cut across natural political and economic divisions and impeded the growth of large parties based, as are the British parties, on a single major issue or, as the American, on an appeal to many dif-

ferent groups. Instead, the hostility engendered by religious controversy makes it extremely difficult for men who may be in agreement on every other issue to work together. A Catholic democrat and an anticlerical democrat may actually feel that they have more in common respectively with a Catholic authoritarian and an anticlerical Communist than with each other. On those occasions when the Catholic progressives of the M.R.P. and the anticlerical progressives of the Socialist Party (which is the French equivalent of the British Labor Party) have attempted to form a democratic "Third Force" opposed to totalitarianism of both the Left and the Right, no weapon in the Communist arsenal has been more effective in attempting to destroy this coalition than such issues as the place of church schools in the educational system. There is no charge to which the Socialists are more sensitive than the accusation that, in allying themselves with the M.R.P., they are betraying the Republic to "clerical reaction"; while the M.R.P. is equally vulnerable to the charges of its competitors for the Catholic vote that it betrays the cause of Catholicism by joining the Socialists for electoral or governing purposes. Thus the religious issue may hinder the formation of governments or cause their fall in a way almost inconceivable to Americans or Britons.

#### WAY OF LIFE

Little in French life has greater political importance than its high proportion of small towns. Almost half the population lives in communes of less than two thousand people; and while a great many of these people are not exactly rural in outlook, neither are they urban in their way of life. For that matter, even the urban population does not live in cities comparable in size to many of those in Great Britain or the United States. Where three-fifths of the British people live in towns of twenty thousand inhabitants or more, only one-quarter of the French people do so. Paris is less than half the size of London, and France's second city, Marseilles, has a population considerably under three-quarters of a million.

Furthermore, about 38 per cent of the French, as compared with 6 per cent of the British, are farmers. And where 54 per cent of the British

are industrial workers, only 37 per cent of the French earn their living that way. Thus there are nine industrial workers for every farmer in Great Britain, while in France there is only one.

So great a difference in occupational distribution inevitably has important political consequences. Under the Third Republic, the vote of the small town and the farm was given special weight through the method of election for the Senate (see p. 263); under the Fourth Republic, the less influential second chamber, the Council of the Republic, is also constituted so as to give particular weight to these interests. But the occupational distribution is still more important in terms of the programs of political parties. In Great Britain, a party appealing primarily to organized industrial labor could conceivably win a majority of the popular vote, but in France a party which ignored the farmer and small town voter would doom itself to political impotence. Thus whereas in Great Britain, the Labor Party looks on itself as the representative of the urban working class, in France, both the Socialists and Communists make tremendous, and not unsuccessful, efforts to persuade nonurban groups to vote for them.

It has been common to draw an equally sharp contrast between the conditions of the farming and working classes in France and Great Britain. It is true, of course, that because most of the agricultural land in Great Britain is held in large estates the overwhelming majority of farmers are laborers or tenants. In contrast, about half the farmers in France own their own land, a fact reflected in their predominantly Centrist position in politics, as compared with the greater extremes of Left or Right in urban areas. But it is also true that some of the farm holdings are too small for more than marginal subsistence. Moreover, probably one-third of the farm population consists of laborers, tenant farmers, and sharecroppers (the prestige and social stability of the latter are considerably higher than of their American counterparts). In addition, large farms are not uncommon in certain regions, thereby lending color to stories of capitalist concentration in agriculture which provoke the resentment of the two million or so small owners. This resentment has been cleverly exploited by the Communists, who have

worked long and systematically in the rural areas of France. At the same time, the Communists, like the Socialists, assure the farmer that no man will be deprived of land which he cultivates with his own labor; and the Communists proclaim in brilliant posters that they are the protectors of the property of the small farmer, against those who would deprive him of it. They also advocate higher farm prices, particularly for the produce of small owners, an appealing line particularly since 1949 when a fall in farm prices instituted a new "scissors crisis" in which the peasants were caught between their lowered income and rising industrial prices.

The French industrial worker, too, is different from the typical British worker, though less so than he used to be. Before World War II, 14 per cent of French industrial workers were self-employed, in their own shops or in their own homes. In addition, where only one-third of Great Britain's workers were employed in factories with one hundred employees or less, 70 per cent of the French workers were in such establishments. Thus it was possible for these workers to retain more of that sense of independence and individualism which is hard to preserve in a highly industrialized society. Nonetheless, and particularly since World War I, the development of large scale industry in France has caused more workers than ever before to be engaged in the type of mass production which is typical of American and British industry. And contrary to the political sympathies of the British working class, these French workers have been particularly open to the appeal of the Communist party.

There is in France another group which is far more sharply defined than in Great Britain or the United States: the intellectuals. In a culture which reveres the mind and has high respect for the educated, the prestige of successful intellectuals is far higher than in America. To a considerable extent, the Communist Party has capitalized on the distinctive position of the intellectual in France by using those whose allegiance it commands as a "front" and, in some measure, an endorsement of its activities. It is symptomatic of a lack of purpose in life that so many have lent themselves to this manipulation or provided the symbols for it (e.g., Pi-



casso's dove, a widely used symbol for peace).

All these elements make it singularly difficult to generalize about the French class structure and about the political sympathies of its different groups. In Great Britain the lines between farmer, worker, and middle class are relatively clear (though less so than they used to be), but in France a large part of both the farming and working class are also middle-class in the sense that they own property, employ themselves, accumulate savings, and, unlike the workers to whom Marx appealed, have much more than their chains to lose. When such men are added to the large number of those who own their own shops and businesses, to the professional classes, and to the increasingly large number of white-collar workers, it is evident that France, more than most modern countries, has been characterized by that predominance of a property-holding middle class which, since the days of Aristotle, has been regarded as the foundation of social order and constitutional government.

So long as this class remained prosperous as well as numerous, its members were regarded as the strongest defenders of republican government. Many small farmers, particularly in the south of France, remembered with gratitude that the French Revolution had broken up the great estates of the nobility and the Church, and they voted conscientiously for the Republican parties of the Left. Similarly, the freethinking shopkeepers, artisans, and professional men of the small towns suspected the Rightist parties as the agents of the Church and big business, and they rallied to defend the Republic against every threat. The Parisian crowds and the Parisian plutocrats might be unreliable, but in the provinces the Republic had an unshakable foundation.

Today, however, a large part of the middle class is frightened and apprehensive, suffering from the economic dislocation of the war and from the economic crises which both preceded and followed it. The weakness of the franc and continued threats to its stability have undermined the traditional French scheme of values in which thrift and security for old age ranked so high. Some of those who fear a dictatorship of the Right or who desire, before all else, a sense of unity and purpose, have been im-

pressed by the Communist claim that they alone have the strength and the discipline to maintain order and institute effective action. A far larger proportion, even before the outbreak of World War II, were so fearful of Communism and the growing demand for drastic social reform that they gave their support to Fascist groups like the *Croix de Feu* (Fiery Cross). With the enormously increased power of the Communists in the postwar period, and with the fear of international war, internal disorder, and economic disaster, the tendency to hunt for a savior or leader has become stronger than ever, and a substantial part of the middle class has turned for salvation to political groupings of the extreme Right, not because it dislikes democracy but because it wants some escape from its anxieties.

One great challenge to democratic government, therefore, will be its ability to prove to this class that democracy can summon both the strength and the skill to prevent civil disorder and to institute popular and effective programs. Equally, however, democratic government in France faces the challenge of weaning the working class, and to some extent the peasants, from their allegiance to the Communist Party by providing a more satisfactory program than the Communists can offer.

### Class Divisions

To say that there is a strong middle class in France is not to say that great inequalities in income do not exist. In 1930, for example, 1 per cent of those who died left 40 per cent of the property possessed by all of those who died, and less than 1 per cent of the population received more than 10 per cent of the total income. One-third of those who died left no property at all, and another sixth left almost none. Fifteen per cent of the farmers owned two-thirds of the land in production.<sup>3</sup>

These figures are less extreme than the corresponding figures for Great Britain (p. 11), but they help to explain the development of an intense and bitter class hatred between the wealthier businessmen and industrialists and an increasingly large section of the working class.

<sup>3</sup> French statistics should be used with caution as material is scanty and sometimes contradictory.

## THE BUSINESS OLIGARCHY

The wealthy classes in France have not constituted a "ruling class" in the same sense as the British upper classes (p. 11). In France, as in Great Britain, an ancient landed nobility existed side by side with a new commercial and industrial oligarchy. But the Revolution weakened the power of the nobility, and, unlike the British aristocracy, it was not flexible enough to absorb the leaders of industry and commerce. After the Revolution of 1830, no new titles could be granted which the older nobles would accept as "legitimate," and after the establishment of the Third Republic in 1870 there were no new titles at all. Thus the ranks of the aristocracy could not be reinforced, as in Great Britain, by the addition of able members of new generations. Perhaps more serious, many of the members of this class felt that loyalty to the old regime compelled them to hold aloof from serving what they regarded as an illegitimate government. Some of them continued their service in the army or the diplomatic corps, where aristocratic accomplishments were more valuable and where service to French national interests offered some justification for holding office under a republican government. But the other departments of the government were relatively free of men of title. In addition, because of the strong opposition of a large part of the middle class and the peasantry to the old regime, the French legislature, unlike the House of Commons, contained few aristocrats. After 1877 it was unheard of for a member of the old nobility to hold an important Cabinet post. The government of France, in this sense, was overwhelmingly middle-class.

The political influence of the prosperous businessmen, however, was considerably greater than that of the aristocracy, and in the years before World War II the concentration of great economic power in the hands of a relatively few people gave rise to a bitterly contested political issue. Although giant industry did not appear in France in any significant measure until the last years of the nineteenth century, the industrial demands of World War I brought a rapid and artificial acceleration of its growth and—what was more significant—reproduced some of the worst social and economic abuses

of the Industrial Revolution. The influx of workers (many of whom were foreigners) into the slums of the great cities and the monotonous and uniform work attendant upon mass production created a second type of working class which owned no property and which had little opportunity to develop the independence, individualism, and pride in craftsmanship which characterized the traditional French worker. Such men provided fertile soil for the doctrines of class warfare, and in the owners of the factories and the great financial interests they found an appropriate target for their wrath.

Comparatively few members of the business oligarchy held seats in parliament, but their wealth permitted them to control a large part of the press and to exert great pressure on individual members of the legislature. In addition, the higher civil servants were largely drawn from this class; and behind the façade of a strongly Republican and, at times, very progressive legislature was a permanent civil service which was deeply conservative and not conspicuously devoted to political democracy. Thus, even in 1906, "Alain," the outstanding political theorist of the middle-class Radical Socialist Party, could write that "in France, there is a very large number of radical [progressive] voters, a certain number of radical deputies, and a very small number of radical ministers: as for the heads of the civil service, they are all reactionary." And in the early 1930's it was popular to charge that a small number of men of very great wealth—the famous "two hundred families" denounced in the election campaign of 1936—controlled the great banks, the insurance companies, the railways, the great industrial enterprises, the press, and the governmental administration, and that France could not truly be a democracy until their power had been destroyed.

In part because of this attack upon their position, in part because of their inherited dislike for the Republic, many of this class supported Marshal Pétain and some even collaborated with the Nazi conquerors of France, preferring military defeat to drastic social reform or, as the popular saying went, Hitler to Blum (the great French Socialist leader). Only a relatively small number of this class actively participated in the Resistance movement.

As a result of such collaboration, no demand was made with greater vehemence at the time of the liberation than the demand for the final destruction of this class's power. And for a time it seemed that this aim would be realized. The German conquerors had already weakened the business oligarchy by confiscating, "buying" in forced sales, or otherwise gaining control of many of the great financial and industrial corporations, and the new government of the liberation confiscated the property of outright collaborators. In addition, the government of France, like the British government, embarked on a broad program of nationalization, and several vital sectors of the economy were removed from private control.

More recently, however, the surviving big businessmen of France have taken a more open and active part in politics. Four times as many businessmen were candidates in the 1951 election as in 1946—346 as compared with 85—and their influence is also felt in many less obvious ways. In general, they support the Radicals (see p. 290) or the traditional parties of the right, as was customary in the past, but to some of them General de Gaulle's *Rassemblement du Peuple Français* has seemed to offer a weapon against the Leftist parties. In fact, though De Gaulle was himself the leader of the French Resistance, former collaborationists have contributed both money and votes to his movement, and there have even been instances in which they have run for office on the Gaullist ticket.

#### ORGANIZED LABOR

Before World War II the leading organization of French workers was the *Confédération Générale du Travail* (C.G.T.). Traditionally this organization, in accordance with the independence which characterized the old French working class, had held aloof from politics and, unlike the British trade unions, had refused to identify itself with any political party. Instead, the union put its trust in "direct economic action," confident that the general strike, in particular, constituted a more effective weapon than any amount of parliamentary chatter.

Following the foundation of a French Communist Party in 1920, however, those workers who were under Communist influence seceded from the C.G.T. and formed the *Confédéra-*

*tion Générale du Travail Unitaire* (C.G.T.U.), which maintained an independent existence until 1936 when, as part of the Popular Front movement for common action of all Leftists against Fascism, the two labor organizations were reunited.

During the Pétain regime this organization along with other workers' organizations was banned, but its members regrouped themselves underground and emerged after the liberation, unchanged in name and with a larger membership and greater power than before. There was, however, an extremely important change in the nature of the resurrected C.G.T., for during its years as an illegal organization the Communists had succeeded in capturing control. In order to prevent a split in its ranks, the Communists allowed some of the older leaders (notably Léon Jouhaux, the grand old man of the Reformist wing of the C.G.T.) to retain positions of prominence, but most of the posts of real power were given to Communists. Under their leadership the union dropped its old attitude of noninterference in politics. Communist leaders explained that the economic powers of the government were now so great that the unions could not refrain from attempting to guide it. However, anti-Communists charged that another motive was at least as important: the desire to use the trade unions as a weapon for the Communist Party's own political purposes.

In the months following the liberation it was frequently said that no Cabinet could conceivably survive a general strike, even though it commanded the support of a majority of the voters. According to this theory the unions, if they chose, through their ability to halt the mining of coal, the transportation of consumers' goods, and the manufacture of essential commodities could cause the downfall of any government. Thus, whether or not the Communists could win an election, they could hold a power of life or death over any Cabinet: if the voters did not grant power voluntarily to the Communist Party, it could prevent government by any other party or coalition of parties.

At first glance, this relationship between the Communist Party and organized labor might not seem very different from the relationship of the Labor Party and British trade unions. In

reality, the difference is fundamental. The British trade unions look on the Labor Party as an instrument for the peaceful attainment of economic reform, and the party is useful to the unions only to the extent that it can persuade a large part of the electorate voluntarily to vote for its candidates and program. But in France the position of party and unions is reversed. The party controls the C.G.T. and uses it as a weapon to coerce the voter when he would not, voluntarily, accept the Communist candidates and program.

In this sense, the first major test of the C.G.T.'s power of coercion occurred in the fall of 1947 when the Communist Party decided upon what was virtually a general strike, ostensibly to bolster a perfectly legitimate demand for higher wages but actually to force a change in government and to prevent France from co-operating with the European Recovery Program as proposed by Secretary Marshall. Only the decisive measures taken by the government to maintain order, coupled with the good sense of French workers, and the opposition to the strikes of the Reformist wing of the C.G.T., prevented the plan from succeeding. In December 1947, a large number of workers, including both those who were sympathetic to the Socialist Party and those who wished to return to the old nonpartisan tradition, broke away from the C.G.T. and, with the support of Léon Jouhaux, formed a new organization, the *Confédération Générale du Travail—Force Ouvrière* (F.O.—Workers' Force).

The French trade union movement was now divided into three main groups. The C.G.T., which in the exuberance following Liberation claimed six million members, sank to something over two million members by 1949. The Force Ouvrière claimed a million and a half members by the middle of 1948, though this is twice the number usually estimated for it. In addition, there was the organization of Catholic trade unions, the *Confédération Française des Travailleurs Chrétiens* (C.F.T.C.—French Confederation of Christian Workers) claiming a membership of some nine hundred thousand. Both the F.O. and the C.F.T.C. insisted they were not allied to a particular political party, but their inevitable association with the Socialist Party and the M.R.P., respectively, weak-

ened their positions. Neither proved capable of attracting the two million former members of the C.G.T. who simply withdrew from trade union membership entirely.

Despite its lack of success in the fall of 1947, the C.G.T., at the behest of the Communist Party, launched a second crippling strike in October-November 1948, this time concentrated on the coal mines. Once again courageous action by the government combined with the support of other workers proved that the Communists had no complete domination over the nation's economy. This did something to reduce Communist influence within France as a whole, and particularly within the labor movement. But the strikes themselves seriously slowed down French recovery, and further disturbed the cohesion of the country. Moreover, though its two strike efforts had been curbed, the C.G.T. remained the dominant organization among industrial workers; in not a single basic industry had its supremacy been shaken. In addition, in the social security elections (see p. 403) of 1950, it polled 43.5 per cent of the vote, as compared with 21.3 per cent for the C.F.T.C., 15.2 per cent for the F.O., and 20 per cent for all other unions.<sup>4</sup> Thus in over-all strength, as well as strategically, the C.G.T. continues to occupy the most significant position in French trade unionism. Moreover, despite the removal of certain militants from C.G.T. leadership, the Communist Party continues to dominate its policy.

The fact that neither the non-confessional F.O. nor the Catholic trade unions can successfully challenge the position of the C.G.T. and the fact that the Communists maintain their strategic hold over the latter union indicate how relatively unsuccessful the Fourth Republic has been in satisfying the demands of the workers. Economic reforms, including nationalization, have had less effect on the morale of the workers than black market luxury and the obvious profits of business. In contrast to Great Britain (see p. 202), the share of the wage earner in the total national income has probably declined from prewar days, while increased social security benefits, notably family allowances, main-

<sup>4</sup> The *Confédération du Travail Indépendant* (C.T.I.), founded in October 1949, has a Gaullist wing, but on the whole De Gaulle has made little impression on the workers.

tain the former standard of living for only certain groups. Bad housing and overcrowding have been tackled far less effectively than in Great Britain. Moreover, relations between labor and employers remain strikingly unsatisfactory. There was virtually no experience with collective bargaining prior to World War II; thereafter, until February 1950, wages were set by government action. Yet most price controls had been lifted a full year earlier. The net result has been intense dissatisfaction, considerable hardship, and, in the absence of responsible trade unionism exercised through collective bargaining, a dependence by the workers on the party or union which promises economic gain. Thus, the Communist Party can threaten the government with a strike that is called ostensibly for the workers' benefit. That party alone can afford to be unscrupulous in what it promises the worker, since it cares neither for the stability of the French economy, as must the more moderate parties, nor about the continuance of the democratic parliamentary system. Thus in the absence of a courageous tackling of the most obvious economic inequalities and a radical improvement of worker-employer relations, there seems little chance of undermining the position of the Communists among the industrial workers, particularly in the basic industries.

#### ORGANIZED FARMERS

In agriculture, traditionally a far more individualistic occupation, the Resistance movement produced a counterpart to the organization of industrial workers. Before World War II there were pressure groups promoting the interests of certain types of agricultural producers—winegrowers, sugar beet growers, and so forth—but there was no single powerful channel for the exercise of peasant political influence. During the Pétain regime, however, an underground peasant movement, the *Confédération Générale de l'Agriculture* (C.G.A.—General Confederation of Agriculture) was formed under Socialist leadership. For several months following the liberation no competing group was permitted to exist, and for a time there was some fear that the Socialists would control the farmers' union much as the Communists controlled the C.G.T. Both the M.R.P. and the Communists made efforts to capture the C.G.A.

but both were unsuccessful. Today the prewar interest groups have largely regained their traditional predominance.

The creation of the most powerful peasant organization in French history has not been regarded as an unmixed blessing. Even before World War II the great power of the peasant vote had forced a certain artificial dislocation of the economy. In political and social terms it might be desirable for France to maintain an almost even balance between town and country; but in economic terms the result was to retard the development of French industry and to lower the French standard of living. The French peasant could be protected against the competition of Canada, the United States, Argentina, and Australia only by the use of tariffs and subsidies; and the crop which was raised behind this protective wall, while large enough to feed the entire French population in a good year, was smaller than that of those great wheat-producing countries in relation to the manpower required. Thus France, directly or indirectly, paid an artificially high price for her food at the same time that her industrial development lagged.

The dislocation of the war, with its loss of manpower and deterioration of equipment, seriously reduced French agricultural production at a time when there was a desperate shortage of food throughout Europe, and during the years following the liberation the heightened demand for farm products introduced an era of agricultural prosperity at a time when the urban population was suffering severely from inflation and the lack of food. Production levels remained low, however, in comparison with other countries; in Denmark, for example, one agricultural worker in 1949 produced the food for thirteen people, in France, only for five or six. When farm prices began to fall in 1949, the French peasants found themselves caught in "a scissors crisis" (p. 240) unpleasantly reminiscent of the thirties.

Nonetheless, though the organized peasantry, like the organized workers, are in a position to make their power felt against any government of whose policies they disapprove, this power is likely to be exercised only to promote the farmers' economic interests as such and not to support the political ambitions of any party.

**THE PROBLEM OF ECONOMIC PRESSURE GROUPS**

The existence of organizations like the C.G.T. and the C.G.A. which attempt to weld an entire class into a single powerful association presents a problem of exceptional political importance. To some extent, such organizations are states within the state, which, if successful, may attempt to dictate the policy of the government regardless of the desires of the majority of the voters. It is not without significance that in the discussions customarily preceding the solution of governmental crises, spokesmen of the large interest organizations are just as frequent callers at the President's residence, or on a prospective premier, as are the leaders of different political groups. Moreover, it is hardly conceivable that any government could stand out against a general strike of all the workers or of all the farmers unless it were willing to resort to instruments of repression which are difficult to reconcile with democracy. Yet the principle, as applied by the C.G.T., that a minority group may use its economic power, not simply to achieve economic goals but to determine political policy (and perhaps even to determine which party shall hold power), is an even sharper departure from democratic procedures. In this sense, it is the good fortune of French democracy that the split in the C.G.T. has reduced its political strength and that the C.G.A. is not dominated by any political group.

***The National Economic Problem***

France's economic problems, which are of long duration, have been solved to an impressive degree in recent years. During the twentieth century, France has known hardly ten years of prosperity: immediately before World War I, between 1923 and 1929, and since 1949. Two World Wars, and the lack of utilization of resources characteristic of depressions, profoundly affected the character of the French economy, which remained much more static than those of other Western countries, resulting in singularly little change in occupational distribution or social structure. All the more significant, therefore, are the advances made since World War II that have brought France well above the levels of 1938 despite the devastation wrought during hostilities. In 1949 the threat of inflation was

curbed, at least temporarily. The Monnet Plan (see p. 356) is channeling investment into key areas for the utilization of resources. France's particular problem now is one of productivity, for the further output of the economy depends largely upon increasing the productivity of the people employed in it.

There are promising features in the French economy. It is singularly well balanced between industry and agriculture. In addition, France is rich in certain resources: before World War II it was the world's largest producer of bauxite (the principal ore of aluminum), the second largest producer of potash and antimony, and the source of 20 per cent of the world's iron ore. Moreover, the French Empire, or French Union as it is now called (see p. 410), enriches France through mutual exchange of products.

One of France's persistent problems, however, has been lack of coal. Before the war, France imported more coal than any other country; with increased industrial development, its needs are still higher. It is this perspective which gives the Schuman Plan (see p. 415) so much significance for France's economic development, as well as for more cordial international relations within Western Europe. Such co-operation on a supra-national basis, coupled with Marshall aid and France's own efforts, can do much to stimulate the industrial development which will make France self-supporting, and by strengthening the economy and making it more mobile will perhaps ease the tension between classes, and provide important evidence of the ability of democratic governments successfully to handle economic problems.

**III. ORGANS OF POLITICAL OPINION*****The Schools***

The struggle of rival economic and religious interests for the control of public opinion has centered about two institutions: the schools and the press. As late as 1937 there continued to be a distinction, on the level of secondary education, between the free, public-supported technical and commercial schools and the pre-professional *lycées* and *collèges*, which charged fees



and which were the preserve of the bourgeoisie.<sup>5</sup> Thus students at the secondary level were separated on class lines, the children of the workers and the lower middle classes receiving one form of education and being prepared for one type of career, while the children of the well-to-do middle classes were prepared for the highest positions in the professions and the administrative service.

In the years before World War II this situation was bitterly attacked by the more progressive parties, and preparation was made to open pre-professional secondary education to the talented of all classes. It was a sign of the continuing strength of this feeling that the new French Constitution adopted in 1946 carried a guarantee of "equal access of children and adults to education, professional training and culture. The establishment of free, secular, public education on all levels is a duty of the State."

#### THE CHURCH AND EDUCATION

A far more serious educational controversy is an inheritance from the time when the Catholic Church was generally suspected of hostility to the Republic and when the Republican government felt it necessary to restrict the Catholic teaching orders and to develop a system of free, public, "lay" education on the primary level. Fundamentally, the struggle was one for the minds of the children. Republican statesmen were convinced that children educated by the Church would grow up to be supporters of the clerical and anti-Republican groups and that only a school system which was Republican politically and "neutral" theologically could create a generation of citizens devoted to the Republic. To the leaders of the Church, however, the "godless" schools of the Republic seemed anything but neutral, and every effort had to be made to restrict their influence.

Thus there were two distinct types of schools. The government provided a system of free public schools, and, in competition with it, the Church maintained, at private expense, a school system of its own. The great majority of French children (particularly the boys) were educated in the public schools, but there were areas, espe-

cially in the west of France, where the Church's schools were very strong.

During the late nineteenth and early twentieth centuries, when the Republic was struggling for its life (p. 255), many of the public school teachers conceived of themselves as warriors in its defense. Often they looked upon the Church as the enemy of education and enlightenment and, particularly after World War I, they often were socialist and pacifist in their outlook. In thousands of villages throughout France the opposition between Left and Right, between the Republic and the Church, came to be personified in the antagonism between schoolmaster and priest.

In later decades, as the Church came to accept the Republic and as many young priests turned toward Christian Socialism, the antagonism was less intense. Unfortunately, the policy of the Vichy government revived it. In an effort to win the support of the Church, Marshal Pétain extended financial assistance to its schools—an action which seemed to many staunch Republicans to offer new proof of the antidemocratic character of the Church. With the re-establishment of the Republic, there was an overwhelming demand from the Left for the abolition of the government's subsidies; and although Catholic leaders of the Resistance movement were most reluctant to agree, financial support was withdrawn at the time. The issue was far from settled, however, and in 1951 the Plevén government secured approval of a new relationship between the state and church schools (see p. 399).

The Fourth Republic continues to be plagued, therefore, by the issue of the relation of the Church to education. As already noted, the raising of the religious issue has proved a favorite weapon in the Communist arsenal for impeding the co-operation of anticlerical Socialists with the progressive Catholic M.R.P. And it is the schools, more than any other object of contention, which provide the occasion for arousing ill-feeling on religious lines, as anticlericals and devout Catholics rally to the ancient war cries of universal, free, "lay" education on the one hand and "freedom of instruction" (that is, the right of the parent to choose freely, without financial handicap, the type of education he prefers for his child) on the other.

<sup>5</sup> For further consideration of the educational system, see Ch. 9, pp. 397-400.



### The Press

In France, as in Great Britain, the chief source of political information and analysis is the press. In France, however, there is a clearer distinction between what is called the "press of information" and the "press of opinion." The former devotes itself ostensibly to the reporting of events, to the entertainment of its readers, and to literary and artistic criticism. The press of opinion, in contrast, is composed of the journals of political parties, and its first aim is to promote the parties' interests. It makes little pretense of objectivity: in the more extreme papers every event is distorted to prove the rightness of the favored party and the viciousness of its foes.

#### THE PREWAR PRESS

It was the special misfortune of France, in the years before World War II, that the ethical standards of its press were remarkably bad. In no other civilized country did the newspapers have so great a reputation for venality; and the parties of the Left in particular have attributed the collapse of French morale and of the government itself, in the summer of 1940, to the insidious work of the press.

Unlike the British newspapers which (largely because of the sale of advertising) may be highly profitable enterprises, the French press has always had difficulty in supporting itself. Sales and advertising often have not been enough to meet the cost of publishing, and in the prewar period many newspapers sought other sources of revenue. Great economic interests like the *Comité des Forges* (the organization of the great iron and steel manufacturers) subsidized individual newspapers, and there were numerous instances of the crudest bribery in order to suppress unfavorable news or to win the publication of advertising "blurbs" as straight news. Some papers, not waiting to be bribed, engaged actively in blackmail. Foreign governments at times spent large sums to influence the French press in favor of their policies, and no one was surprised to learn that the sedate *Temps* (which prior to World War II was the nearest French equivalent of the solid and incorruptible *Times* of London) had, with an objectivity worthy of better expression, accepted the pay, first of the Tsarist government of Russia and then of the

Bolshevik government. The French government itself was known to use its "secret funds" to win the support of influential papers. In the last years before World War II a part of the press became vociferously Fascist and anti-Semitic in character, printing vicious falsehoods about Republican statesmen and even inciting readers to physical violence against them. Legislation was adopted at this time to prevent some of the more extreme abuses, but many were of the sort which could not be regulated without endangering freedom of the press. Newspapers continued with impunity to defend the policy of appeasement and to apologize for Fascist aggression.

#### THE POSTWAR PRESS

With the Nazi victory in 1940, some newspapers ceased publication, some collaborated actively with the conqueror, some attempted to continue publication while co-operating with the authorities as little as possible, and some were published underground. It was possible to detect every gradation between the most abject submission and the most courageous resistance, and the consequent confusion complicated the problem, at the time of liberation, of punishing those papers which had collaborated and even of determining exactly what collaboration meant.

As rapidly as the Germans were driven out of French towns and cities, resistance groups took over many of the publishing plants and proceeded to put out their own papers. Never before had there been so wholesale an overturn in the editing and publication of newspapers: the collaborationist financial oligarchy lost control of its papers and resistance organizations, which often were decidedly Leftist in sympathy, replaced them. In later months the Communists in particular were charged with being "profiteers of the Resistance" because of the large number of papers which they seized; and as late as the spring of 1946 it was announced that in the country outside Paris the Communists controlled 52 newspapers, while the Socialists had only 24, the M.R.P. 27, the middle-class Radical Socialists (which had had the support of an exceptionally large part of the provincial press before the war) 24, and the Rightist groups only 9. Thus France was probably the only capitalist power in the world where the press of the Com-

munist Party was more powerful than that of any other. Indeed, their opponents complained at this time that in the battle of opinion they were compelled to fight machine guns with wooden swords.

The disposal of publishing plants belonging to collaborationists presented a political problem of the greatest importance. The Leftist parties in particular were loud in their insistence that the vicious prewar system (which was stigmatized in the popular phrase "the reign of money") must not be allowed to return, and it was suggested by certain intellectuals that both the independence and the objectivity of the press might be encouraged if the government were to retain ownership of certain printing establishments and itself print, at cost, newspapers for any group which wished to use its services. In this way new publishing ventures would not suffer from the necessity of buying expensive equipment, and a hearing could be won for periodicals which lacked the mass audience needed to support a great newspaper but which, because of the intelligence and diversity of their views, had a real contribution to make to the intellectual and political life of the country.

The solution finally adopted was far less imaginative. In 1946 a law was passed confiscating the property of those newspapers which had continued to appear during the German occupation. The owners of those papers which had not collaborated were to be compensated, but they were not to retain their property. Instead, a National Association of Press Enterprises (*Société Nationale des Entreprises de Presse*—S.N.E.P.), made up of representatives of the government and of all who participated in the publication of newspapers (directors, editors, journalists, and workers) was created to administer the confiscated property until it could be sold, preferably to those resistance groups which had first used the property to put out new papers. Encouragement might be given to these papers through government loans, but the principle was established that all newspapers were to become self-supporting and that, if not, they were to suspend publication. In order to prevent a return of the "reign of money," newspapers were restricted to certain forms of income. Political parties were allowed to subsidize

newspapers, but nonparty newspapers were required to support themselves by sales, advertising, job printing, and similar methods.

In part, this solution was adopted for the practical reason that it promised to preserve the predominance of the Leftist organs of opinion; in part it represented a belief that the most important standard for a free press was to represent all shades of opinion and that special advantages should therefore be given to the publications of political parties. The owners of privately published newspapers complained that the new system placed them at a great disadvantage, that the independent person of unorthodox (non-party) views would not be able to win a hearing, and that nonparty newspapers would be forced to resort to sensationalism in order to win enough purchasers to survive. The first months under the new system, however, produced surprises for both sides in the controversy. To be sure, many of the publications put out by amateurs without sufficient experience and financial backing were obliged to close down. But in addition the very parties which expected to profit most heavily proved exceedingly vulnerable. By the spring of 1948 both the Communist and the Socialist press were encountering financial difficulties. Four of the ten surviving Communist dailies ceased publication because of inability to support themselves, and only one mass-circulation Communist daily continued to appear outside Paris. The Socialists, in an even more desperate plight, were engaged in a struggle to save the life of their great Paris daily, *Le Populaire*. Charges were made that the French press was returning to its prewar condition of domination by wealthy private publishers, and there were demands for a "Statute of the Press" to prevent abuse of this power.

Partly perhaps because of the character of the press, partly because of political apathy, Frenchmen appear to have changed radically their pattern of newspaper reading. In the first place, there has been an over-all drop in circulation figures: where in 1939 the French daily press sold over nine and a half million copies, in 1949 it sold well below nine million. Even more striking is the fact that while the daily sale of Paris papers in 1945 totaled over six million, it fell to less than four million in 1951; in contrast, the pro-

vincial press (always of greater importance in France than in Great Britain, as is natural in a country where regional characteristics are persistent and politically forceful) increased by almost two million to a total of seven million.

#### THE PARIS PRESS

It is the press of opinion which has suffered the sharp decline in circulation figures.<sup>6</sup> Late in 1951, the Communist Party's official newspaper, *L'Humanité*, had a circulation of 200,000, less than half its May 1946 figure of 524,000; while *Ce Soir*, an afternoon Communist paper, had also suffered a steady decline. *Franc-Tireur*, radical left newspaper, though not associated with a particular party, is remarkable in that it still makes a profit, though its circulation fell from 571,000 to 168,000 in the same five-year period. *Combat*, the most brilliant journalistic offspring of the Resistance, dropped from 163,200 to 67,000 and has now been taken over by businessmen who were originally called on for financial aid. The Socialists' organ, *Le Populaire*, which in 1946 had a circulation of 241,000, went as low as 36,000 in July 1950, and has shown no appreciable gain since.

In contrast to the party press, several mass circulation papers which are not identified with any political party, though they stand somewhat further to the Right than those mentioned, managed to maintain their circulation figures moderately well. *Le Figaro* (distinguished for its literary standards), with a circulation of 435,000 in 1951, had gained eight thousand since 1946; *France-Soir* (with its gossip column and comic strip) gained over a hundred thousand to reach 700,000; *Paris-Presse* was less fortunate, dropping from 502,850 to 246,000; and *La Croix* (a conservative Catholic paper) remained almost stable at 170,000.

The nearest French equivalent to *The Times* of London is *Le Monde*, a conservative but far from reactionary paper, with a circulation which varies little from its 1951 figure of 152,000. The completeness and accuracy of its news, its brilliant, sometimes witty political analyses, and the excellence of its foreign correspondents have

won it a special place among French newspapers.

It is apparent, in contrast to the past, that the French today prefer the press of information (and of wit or sensation) rather than the press of opinion. This is in part due to the fact that since the war there have been almost no French journalists who could compare in brilliance, and in influence, with Clemenceau, Jaurès, de Kerilis, or even Tardieu, all of whom made an intellectual as well as political impact through the press. Partly it is symptomatic of the loss of the revolutionary fervor which came out of the Resistance but could not survive the break-up of the Left caused by Communist intransigence.

#### The Radio and Television

The French radio, *Radiodiffusion Française*, is government directed (p. 341), but up to the present it has not aroused the sort of controversy which distinguishes the B.B.C. in Great Britain. During the 1951 election, all parties presenting candidates in a certain number of election districts received ten minutes each over the radio, thereby reducing the advantages previously enjoyed over both the national network and regional outlets by the larger and better organized parties. Television, which is operated by a section of the radio corporation, is as yet of small importance.

#### The Problem of French Organs of Opinion

The great political virtue of the French press, in its relation to democratic government, is the possession by every major political group of its own organs of opinion, with the result that, especially in Paris, the reader has a greater choice of papers and opinions than does the average Englishman. The foreigner may well be bewildered and frustrated by the slanted news of most French newspapers for it is characteristic of a party paper that it presents its own party's point of view, whether in headlines, articles, or editorial comment, without any pretense of objectivity. The Frenchman knows, however, that party papers are political weapons, and that he must adjust himself to

<sup>6</sup> *L'Aube*, the organ of the M.R.P., dropped from 187,425 in 1946 to 38,000 in July 1950 and suspended publication in October 1951.

the slant of the particular paper he is reading. Nonetheless, the sharp drop in the circulation figures of the party press suggests that Frenchmen are somewhat wearied in their reading, as in their politics, by excessive partisanship from which no results accrue. At the moment when the French press is more honest than

ever before in its history, it is also less influential. But this must be attributed as much to cynical popular apathy arising from internal political deadlocks and France's weakened international position as to anything more directly connected with the character of the press itself.

## CHAPTER 2

# The French Political Heritage

### I. ANTECEDENTS OF THE REPUBLIC

Perhaps the most striking difference between the political history of France since 1789 and that of Great Britain and the United States in the same period is the lack of constitutional continuity. Since the Glorious Revolution of 1688 Great Britain has had no political revolution and has made no violent change in its government. Since 1789 the United States has had only one constitution and has had no successful rebellion. But the story of modern France is largely one of recurrent revolutions and threats of revolution. In contrast to the Anglo-American political continuity, France since 1789 has been three times a constitutional monarchy, twice an empire, once a semi-dictatorship, and four times a republic. Moreover, the majority of these changes have been effected by violence. Thus it is not unnatural that talk of achieving further change by revolution should seem far less unrealistic in France than in the United States or Great Britain, and that the French should take their political institutions far less for granted than do the other great democracies.

Such frequent and drastic changes inevitably have had a profound influence upon the nature of French politics. In order to understand contemporary France, therefore, it is essential to have some knowledge of the major contributions of the earlier regimes.

#### *The Heritage of the Ancien Régime*

Modern France's chief inheritance from the ancient monarchy is the tradition of a highly centralized, hierarchical administration, a tra-

dition which is all the stronger because of the long and painful struggle required for its establishment. The power of the medieval kings of France was far more severely restricted than that of their English counterpart. For many years the frequent wars with England (culminating in the Hundred Years' War from 1337 to 1435) divided the country; and even after the invaders had been expelled, the French King was unable to exercise effective authority over such powerful nobles as the Dukes of Burgundy and Brittany. Louis XI (1461-1483), through the skillful if Machiavellian use of his power, reduced their authority substantially. But throughout the sixteenth century, great nobles (frequently identifying themselves with the Protestant party in the wars of religion) intrigued and fought against the royal authority. Only in the seventeenth century did a succession of great ministers of the King—Richelieu (who crushed the last vestiges of Protestant military power and political autonomy), Mazarin, and Colbert—unify the country politically and establish a centralized administrative hierarchy, dependent solely upon the authority of the King. Today it is still popular to say that, whatever else has changed in France, the system of monarchical administration still is recognizable—monolithic, overexpanded, and encumbered with red tape.

The *ancien régime* also had an important negative influence upon succeeding governments by impeding and delaying the growth of a tradition either of constitutionalism or of parliamentarism. During the Middle Ages there had been a strong belief, in France as in England, that the King's power was subject to the inherited customs and law of the kingdom. But in the seventeenth century the kings of

France, partly through the use of the great military force needed to defend, and extend, the land frontier, established the kind of divine right monarchy which the dazzled Stuart monarchs vainly tried to introduce in England (p. 21).

The Middle Ages had also seen the growth of an embryonic French parliament, the Estates General, representing the nobility, the clergy, and the growing middle class; but this body met only when summoned by the King, and from 1614 to 1789 it was not summoned at all. In consequence, when the French people finally overthrew the monarchy, they had none of the experience in the conduct of parliamentary institutions and in self-government which made possible the orderly supplanting of the royal authority in England. When, in the early nineteenth century, attempts were made to introduce a parliamentary system based on the British pattern, the experiment failed: for the experience and customs and habits of mind essential to the success of the institutions could not be carried across the Channel with them.

The keeping of social peace in France was impeded by another characteristic of the ancient monarchy: the maintenance of a sharp distinction between the nobility and the middle class. In Great Britain the younger sons of the nobility regularly became "commoners" and the most distinguished of the commoners often acquired titles, so that the nobility and the upper middle class were far from hostile. But in France, class lines were maintained with considerable strictness, and the privileges of the nobility (which seemed without justification once the nobility abandoned the rigors of military service for a pleasant but parasitic life at court) aroused great resentment. As the middle class grew more numerous, more prosperous, and better educated, it regarded with ever-increasing animus the high taxes (from which the nobility were exempt), the financial ineptitude of the government, the class barriers to careers in the army and administration, the absence of organs for the representation and defense of their economic and political interests the restrictions upon industry and trade, the arbitrary exercise of the royal authority, and the limitations upon freedom of thought, expression, and political action. Thus the Revolution of 1789

is to be understood, in large measure, as a violent reaction of the middle classes against many of the outstanding characteristics of the monarchy—but a reaction which, by its very violence, produced an enduring cleavage in French national political life.

### *The Revolutionary Heritage*

The great French Revolution started out, in 1789, as an attempt to reform the monarchy and ended, in 1792 and 1793, by abolishing the monarchy and executing the King. As the Revolution advanced, it was marked not only by foreign war and by civil strife between Royalists and Revolutionists but by a struggle among the Revolutionists themselves and a Reign of Terror in which the Revolution devoured many of its own children, first those who had been more moderate and finally the terrorists themselves. In 1795, in reaction against both the excesses and the idealism of the preceding years, power was entrusted to a five-man Directory, a government characterized by weakness, mediocrity, and corruption; and there was little popular desire to defend so uninspiring a regime when Napoleon Bonaparte, one of the distinguished generals of the Revolutionary armies, attacked it, proclaimed a Consulate (with himself as First Consul) in 1799, made himself Consul for life in 1802, and established an Empire (with himself as Emperor) in 1804.

But if the life of the First French Republic was short, agitated, and bloody, it had enduring consequences. The work of unifying the country was completed by the sweeping away of all internal economic barriers and by proclaiming the French Republic to be, in the famous phrase, "one and indivisible." Moreover, this unity found a powerful spiritual reinforcement in the growth of a fervent sentiment of national patriotism, symbolized in the *Marseillaise* and the deep attachment to the tricolored flag, which, at least until the Front Populaire, overrode the divisions of religion, class, political outlook, and economic interest.

In addition, the Revolution abolished the reign of privilege, and established as an enduring principle of French government the "career open to talent." The partial destruction and division of the great estates of the nobility

and the Church helped to create the powerful, property-owning rural middle class in which the Republic, in later generations, was to find its strongest support. And the noble, if unrealized, aspiration toward political liberty and self-government, as expounded in the Declaration of the Rights of Man and of the Citizen (p. 272), provided an ideal and a precedent for subsequent, and more successful, struggles for human freedom.

### *The Influence of the Empire*

Napoleon's success in destroying the Republic is responsible in large measure for two of the outstanding characteristics of later republican and democratic thought in France: the fear of any strong leadership, and a certain distrust even of the people themselves as a bulwark of democracy. Each of Napoleon's successive usurpations was ratified in plebiscites by an overwhelming majority of the people, and it was evident that the great majority of Frenchmen were ready to exchange a perilous liberty for personal security, political order, and military glory.

Yet if Napoleon destroyed the Republic, subverted political liberty, and concentrated unlimited power in his own hands and in this sense was a forerunner of modern totalitarian dictators, he also maintained and consolidated many of the social and economic gains of the Revolution: the elimination of privileges based upon class, the destruction of provincial barriers to trade, the freeing of the people from feudal tithes and duties, and the distribution of property among the peasants. Moreover, he added certain contributions of his own. His codification of the law and reorganization of the administration (pp. 366, 377) determined the form of two institutions which remained essentially unchanged through all the political vicissitudes of the coming generations and which have had a profound effect upon French political life.

### *Experiments with Constitutional Monarchy*

The defeat of Napoleon in 1814 and 1815 and the restoration of the Bourbon monarchy under Louis XVIII provided France with its second

opportunity to develop constitutional monarchy and parliamentary government on the British pattern. The ancient nobility and the higher clergy, however, were reluctant to adjust themselves to the new political code; and the accession of Charles X in 1824 inaugurated an era of reaction which precipitated the revolution of July 1830 and the substitution of a new monarch, Louis Philippe of the House of Orleans.

The new "citizen king" was pledged to constitutional government and to moderate policies, but there was still no clear acceptance of the principle of ministerial responsibility and, therefore, of popular supremacy; further, the Orleanist Monarchy's prosecution of its political opponents was taken as additional proof that monarchy could not be reconciled, as in Great Britain, either with political liberty or with democratic government. In 1848, with surprising ease, the King was dethroned and France began its second republican experiment.

### *The Second Republic*

The life of the Second Republic was short and agitated. From the very beginning, there appeared a cleavage between the moderate men of the middle class who favored republican government but feared social upheaval and the radical working class of Paris which was primarily responsible for the Revolution. The two elements came to blows in the bloody "June days" of 1848, and the moderates who controlled the government, supported by the provinces (which looked upon "red Paris" with great distrust), triumphed over their opponents. Their victory, however, was short-lived. In the presidential election of December 1848 the candidates of both moderate and radical Republicans were overwhelmed by the tremendous popular vote for Louis Napoleon Bonaparte, the nephew of the great Napoleon—whose orderly and glorious government appeared, in retrospect, something of a golden age. Imitating his uncle, "Napoleon the Little" in December 1851 dissolved the legislative assembly, seized its leaders, and won the consent of the people (in each case by an overwhelming vote), first to an extension of the presidential term of office to ten years and then to the establishment



of an empire to be ruled by Louis Napoleon under the title of Napoleon III.

Thus for the second time the friends of the Republic learned the hard lesson that any strong, popular leader was a potential menace to the Republic, and that the people could not be trusted to resist the political charms of a leader with monarchical ambitions.

### *The Second Empire*

The first years of imperial government were marked by the vigorous persecution of political opponents and the concentration of great power in the person of the Emperor. Yet it was symbolic of the cleavage between those who were interested primarily in political liberty and those who were chiefly devoted to social justice that certain Socialists supported the Empire in its early years in the hope that it would introduce economic and social reforms.

In 1869, as popular dissatisfaction with the imperial government increasingly manifested itself, an attempt was made to transform the regime into a "Liberal Empire," although the problem of whether a Ministry's first responsibility was to the legislature or to the Emperor still was not clearly resolved. The disastrous Franco-Prussian War of 1870 intervened before the new constitutional experiment could be carried very far; and in September a new revolt in Paris overthrew the government and established a Third Republic.

Thus the agitated years between 1815 and 1870 had brought no clear agreement upon fundamental political principles and institutions; if anything, the political problem had grown more complicated as the supporters of both monarchical and republican government were divided among themselves into supporters of Bourbons, Orleans, and Bonapartes, those favoring a moderate republic, and those favoring radical social reform. Yet there was one gain: each of the different regimes had experimented with some form of parliament; and if the problem of the relation of executive to legislature had never been worked out, a considerable degree of familiarity with parliamentary institutions had been gained and the new Republic could therefore draw upon a valuable store of political and parliamentary experience.

## II. THE POLITICAL HERITAGE OF THE THIRD REPUBLIC

### *Early Crises*

For many years after the collapse of the Empire the life of the Republic was anything but secure. The first elections actually resulted in the victory of a Royalist majority; and it was only because the monarchists could not agree which king to restore that the Republic, more or less by default, was permitted to survive. In addition, in 1871, the city of Paris, which had precipitated every successful revolution since 1789, again revolted and established a government known as the *Commune*. This time, however, the revolt was mercilessly crushed, and the very vigor with which the provisional government suppressed the Communards reassured the mass of non-Parisian voters that a Republican government could also be conservative and stable. Yet the new prestige of the Republic was purchased at the price of bitter hatred, and the memory of the martyrs of the Commune is still cherished by Paris workers.

It was not until 1875 that France acquired the makeshift constitution under which the country lived, somewhat to its own surprise, until 1940—a far longer period than any of the earlier French constitutions, clear, logical, and comprehensive as they may have been, had endured. The new constitution was really a succession of three laws—on the organization of the Public Powers, the organization of the Senate, and the relations between the Public Powers—which were passed by a combination of Republicans and moderate Royalists who were tired of long delay, eager for some kind of definite political order, and willing to compromise on a set of laws which could easily be adapted to a restored monarchy.

According to these laws, a bicameral parliament was set up consisting of a Chamber of Deputies elected by universal suffrage and a Senate chosen by various elected officials. The two chambers meeting in joint session (under the title of National Assembly) had the power to elect a President of the Republic for a term of seven years. The National Assembly could also, when each chamber had adopted a resolution to that effect, meet to amend the constitu-

tional laws by a majority vote. Ministers were collectively responsible to the chambers for the general policy of the government, and individually responsible for their personal acts. With the consent of the Senate, the President could dissolve the Chamber of Deputies before the expiration of its term of office (four years) and call new elections.

#### THE SIXTEENTH OF MAY

It was not long before these laws met their first severe test. The President of the Republic, Marshal MacMahon, was a Royalist and a strong partisan of the Church. When the Chamber of Deputies (of which the Republicans had by this time won control) passed an anticlerical resolution, MacMahon rebuked the Chamber; and on the famous Sixteenth of May, 1877, the Premier, Jules Simon, resigned in protest, as MacMahon had hoped he would. The President's action in appointing a proclerical Ministry which lacked the confidence of the Chamber of Deputies already appeared to be an attack on parliamentary principles; and when he proceeded to dissolve the Chamber of Deputies, with the consent of a bare majority of the Senate, the danger to the Republic was extreme. In the electoral campaign which followed, the Republican slogan "Clericalism—there is the enemy" proved an effective successor to Voltaire's "Ecrasez l'infâme." MacMahon's supporters were decisively beaten, and in 1879 the President resigned his office.

The episode had an enduring effect upon French history. Not only did it confirm faithful Republicans in their fear that any strong ruler might imitate the two Napoleons and overthrow the Republic, but from this time on the dissolution of parliament in case of disagreement between the Ministry and the parliamentary majority was not regarded, as in Great Britain, as a normal part of the parliamentary process. Instead, it was considered to be a weapon which would be used only by a potential destroyer of the Republic. From 1877 to the collapse of the Republic in 1940 no other President dared make use of this power.

MacMahon's successor, Jules Grévy (1879-1887), was authentically Republican and sufficiently colorless to prevent anyone from fearing his aspirations. During his administration the

Republic further strengthened itself by instituting a series of educational reforms with the intention of breaking the hold of the clergy on the minds of the youth of the country. The Jesuits and other teaching orders which refused to comply with the new rules were expelled from France; and in competition with those religious schools which survived there was founded a system of universal, free, and lay education which was intended to be secular and neutral toward religion. In practice, however, the teaching was ardently Republican, and the later safety of the French Republic often was attributed to its prowess in the battle for the minds of the children.

#### THE BOULANGER EPISODE

If Grévy's term of office strengthened the Republic in this respect, it weakened it seriously in another. Charges of corruption which involved the son-in-law of the President himself helped to give the leaders of the Republic a reputation for dishonesty which seriously undermined the Republic's prestige and destroyed much of the idealistic devotion which it had earlier inspired.

The colorlessness as well as the corruption of the Grévy administration explain to some extent the phenomenal growth in popularity, in 1886, of General Boulanger, the Minister of War, a young man of dashing appearance and questionable political aspirations. Winning election after election in different parts of France, Boulanger finally succeeded in sweeping the city of Paris, the old stronghold of radical Republicanism.

Boulanger's intrigues against the Republic were marked by hesitation, cowardice, insincerity, and duplicity. Drawing his chief support from Royalists and Clericals, he also flirted with radical groups on the Left. At the psychological moment, when his friends urged him to overthrow the government by force, his nerve failed and he fled the country (1889). In 1891 he committed suicide on the grave of his mistress.

The Boulanger fiasco made Royalists and Clericals appear absurd, where earlier they had seemed formidable. But good Republicans shuddered at the thought of what an able adversary might have done with the opportuni-

ties which Boulanger squandered, and the conviction that a popular hero, particularly a military one, was a menace to the Republic became stronger than ever.

#### THE DREYFUS AFFAIR

The triumph of the Republic at this time led certain Clericals to reconsider their position and to think of reconciling themselves, or "rallying" to the Republic. In this attitude they were supported by Pope Leo XIII, who in 1892 called upon Catholics to accept the Republican government. Unfortunately, such efforts at reconciliation (which might have simplified French politics by eliminating the religious issue) were doomed by the crisis known as the Dreyfus affair.

Certain Royalists and Clericals had held back from the *ralliement* because a new financial scandal involving high government officials had discredited the Republic and gave hope that the issue of anti-Semitism (Jewish bankers were also involved in the scandal) could be used to undermine the Republic. To this fire fuel was added by the news that a young Jewish army captain, Alfred Dreyfus, had been found guilty of selling military information to a foreign power (Germany) and condemned to imprisonment on Devil's Island. In reality, Dreyfus had been convicted on insufficient evidence. By an extraordinary series of coincidences and accidents his family and their friends learned that important officers of the French Army, including members of the general staff, knew that Dreyfus might be innocent and that the real culprit was probably a cosmopolitan adventurer, the nephew of General Walsin, Major Esterhazy. Nevertheless, officers had connived at the suppression and ultimately at the forgery of evidence, largely to conceal the corruption, intrigues, and chaos which ruled in the Ministry of War.

The charges against the army resulted temporarily in a wave of hysteria. To many people an attack upon the army was an attack upon France itself, and it seemed far better that an innocent Jew should suffer than that the integrity of military commanders should be questioned. Many others saw in the contest a final struggle between all that stood for intolerance and reaction on the one side and justice and

liberty on the other. The issue was one which destroyed friendships and divided families. In general, however, those who wished to maintain the conviction of Dreyfus were the Royalists, Clericals, militarists, super-patriots, and those who hated Jews, Protestants, and foreigners. On the other side were most of the staunch Republicans, the anticlericals, and the Socialists. One of the noteworthy aspects of the struggle was the extent to which intellectuals like the writers Emile Zola and Anatole France and the painter Claude Monet, together with many scholars and teachers, deserted their studies and studios and joined with practical politicians like Clemenceau and Jean Jaurès in a struggle for truth and justice. In the long run these ideals outweighed the irrational appeals to the honor of the army and the glory of France, and Dreyfus was liberated and restored to the army. Yet even after Esterhazy and the forger, Henry, had confessed, many anti-Dreyfusards maintained their earlier ideas. Some simply refused to believe the evidence, while others insisted quite frankly that justice was less important than order and national power.

One other aspect of the case is worth noting. This most sensational of French political controversies was one which rested almost completely in the realm of ideals and principles and not of material interests. In other countries attention might center upon economic and material issues. In France justice and liberty were themselves issues; a concern with issues of principle has continued to be characteristic of French politics.

#### THE ANTICLERICAL REACTION

Some of the Republicans who triumphed in the struggle over Dreyfus were as fanatical as their most reactionary opponents, and they now turned their fury against the Church. The Combes Ministry, which came into office in 1902 (Combes himself had been trained for the priesthood), led the attack. Government officials and army officers were discriminated against if they went to Mass or sent their children to church schools; and in 1905 the famous *Separation Law* not only revoked the government's power over the appointment of bishops (a change which the Church welcomed) but

deprived the Church of all financial support from the government and vested ownership of all churches in the government, although religious congregations were permitted to continue to use them without payment. The provisions of this law were bitterly resented and resisted by faithful Catholics, and although the government soon relaxed the rigidity of its enforcement, the religious issue continued to have great political importance until the outbreak of the war of 1914-18. The law had one unintentional consequence, however: only those who were ready to accept a life of sacrifice and poverty were now tempted to enter the priesthood, and their devotion to their work and the sharing of the poverty of their parishioners added to their popularity.

### *The Inter-War Period*

World War I apparently left the Republic more firmly established than ever. The final victory redounded to its credit. The clerical issue seemed to be less important. The country passed through a series of financial crises from 1924 to 1928, but it was not until the coincidence of the economic depression of the early 1930's with the rise of Fascism in Germany and with new financial scandals that the Republic was again in danger. In January 1934, Stavisky, a Jew of Russian origin (and therefore a fit subject for anti-Semitic and nationalist propaganda) committed suicide as the result of financial manipulations which could have been carried on only with the friendly tolerance of high government officials. The Cabinet of Premier Camille Chautemps, by trying to hush up the scandal, gave ammunition to those who charged that the government from top to bottom was corrupt and was conniving with swindlers and thieves. On February 6, 1934, a great mob, reminiscent of those which had made revolutions in the past, but a mob which was Fascist rather than Leftist, attacked the Chamber of Deputies. The police, with great difficulty, held it in check, but the Ministry of Edouard Daladier (who had succeeded Chautemps) resigned. A government of national unity, including representatives of both Right and Left, was formed under a former President, Gaston Doumergue. However, when

Doumergue demanded additional powers and began to make use of the radio to build support of his policies, the Frenchman's fear of a strong man returned; by November he was out of office.

### THE POPULAR FRONT

The February riots had a more lasting consequence. The strength of the anti-Republican mob was a shock to loyal Republicans everywhere. In the face of the Fascist menace the "republican discipline" of older times was revived and the great parties and organizations of the Left drew together in the *Popular Front* of 1935. Three major parties, the Radical Socialists (the moderate lower middle class party), the Socialists, and the Communists, together with minor groups, adopted a common program and formed a common front for the election of 1936 and won a substantial, though not overwhelming victory. Léon Blum, the leader of the Socialist Party, and a Jew, became Premier (a fact which gave further encouragement to anti-Semitism among the Rightists).

Blum faced an almost insuperable task. His government was expected to resist Fascism abroad, to maintain international peace, and win social and economic reforms at home. The tasks were not easily reconciled. An aggressive Hitler could be thwarted only by a policy which risked war and sacrificed butter to cannon. Social reforms like the shorter working day were inconsistent with the increased production of munitions; the labor which produced armaments could not be used to raise the standard of living; and the expense of rearmament was a serious competitor with the cost of social insurance and other reforms. Since Germany was both more populous and more highly industrialized than France, a France which wished to defend itself had to make exceptional sacrifices of a most unpleasant character.

The Blum government concentrated first of all upon social reform, passing a series of laws which provided for collective bargaining, the raising of wages, nationalization of the munitions industry, the forty-hour week, aid to the farmers, and reorganization of the Bank of France. But the reforms of the Popular Front took place in an atmosphere of great social ten-

sion. The outbreak of the Spanish Civil War intensified the bitterness between the Right and the Left and to some extent revived the clerical issue, although several eminent Catholics, including the Archbishop of Paris, Cardinal Verdier, refused to support Franco.

Within a relatively short time the Popular Front showed serious cracks. The Communists, from the very beginning, had refused to share responsibility for government policies by accepting posts in the Cabinet, and soon it was clear that a large section of the more conservative Radical Socialists were unwilling to support the more radical measures of the Blum government. One year after its great victory of 1936 the first Popular Front Cabinet was obliged to resign, following a defeat in the Senate; and in the following months it became apparent that no government could provide the firmness and leadership needed to meet the combination of crises. The precedent had already been set in earlier years of granting "full powers" to the executive to issue laws by simple decree, subject only to later parliamentary ratification, and during the last years of the Third Republic's life there was an increasing tendency for such "emergency" powers to become a regular and necessary part of the political order.

Perhaps the most shattering evidence of Cabinet instability was the Cabinet crisis in March 1940 (the month Hitler's armies invaded Norway) and the fact that the country was on the verge of a second crisis when the Germans invaded the Low Countries in May. Thus the government did not have the full confidence and support of the country at the time of its greatest trial, and the military disaster was intensified by the absence of effective political leadership.

### III. THE CHARACTERISTICS AND INFLUENCE OF THE THIRD REPUBLIC

#### *The Multi-Party System Under the Third Republic*

Perhaps the most remarkable characteristic of the Third Republic, at least to the Englishman or the American, was the apparent con-

fusion of the party system. In contrast to the two great parties of Great Britain or the United States, France had several—exactly how many no one ever was quite sure. On the Left there were three large and fairly well-organized parties: the Radical Socialists (the party of the anticlerical lower middle class: the small shopkeepers, the less successful professional men, and the small farmers); the Socialists; and, on the extreme Left, the Communists. On the Right the political situation was less clear, for the groupings were looser and the organizations less highly developed. In general there were two principal groups, the Republican Democratic Federation on the far Right and the Democratic Alliance, whose members ranged from the middle-Right to the Center. Both groups were conservative economically, but the Democratic Alliance, particularly in the years before World War I, was both anticlerical and strongly Republican, while the Republican Democratic Federation was socially conservative, standing for the Church and the family.

From the extreme Right to the extreme Left, and in the interstices between the major parties, were smaller groups, like the Popular Democrats, the forerunner of the M.R.P. Without counting those political groups which were limited to a single region, like Alsace, or which ran only two or three candidates, there were ordinarily about a dozen groups among which voters might choose. It was unusual, however, for more than six or seven groups to run candidates in the same district; and only the three large Leftist parties made a serious effort to run candidates in the majority of districts. Thus there was no uniformity of choice throughout the country, and even with so large a number of parties, the election results did not catch the exact strength of every shade of opinion.

Even this picture, moreover, is an oversimplification. Particularly in the Center and on the Right there was little uniformity between the names of the national political organizations, the names of the political groupings in the Chamber of Deputies, and the names of the political groupings in the Senate. People elected under the same party banner might belong to quite different groups in the Chamber and the Senate, while men elected to different parties might unite to form a single parlia-

mentary group. Members of the same group might have one name in the Chamber and another in the Senate. And the names themselves might be quite misleading. A group unenthusiastic about the Republic and about democracy was called the Republican Democratic Federation. Almost every group which included the word "Left" in its title (Republicans of the Left, Independents of the Left) sat in the Center or toward the Right. Even the word "Socialist" had a tendency to move toward the Center. In a somewhat oversimplified but basically accurate translation of party names into American terminology, socialist meant democratic, radical meant center, Left meant Right, Right meant reactionary, and Independent might mean Fascist.

In a way, this nomenclature responded to the desire of many Frenchmen to vote "always to the Left," not so much because they favored the programs of the Leftist parties as because they wanted to vote as forcefully as possible against the forces of clericalism and reaction. The most conspicuous way of showing one's hostility to the reactionaries of the Right was to vote as far to the Left as possible. Foreign observers used to comment upon the spectacle of moderately prosperous peasant proprietors solemnly voting Socialist. Such a vote did not necessarily mean that the voter wanted a program of radical social reform (not to mention a proletarian revolution), particularly if such reform proved expensive. As the saying went, the French voter's heart was on the Left, but his pocket was on the Right. Voters resembled the peasant who said: "Always to the Left—but no farther." The "always to the Left" proved that the voter was solidly and reliably Republican and anticlerical; and it was characteristic of French politics that a party which was socially somewhat conservative but staunchly anticlerical was regarded as more Leftist than a party which advocated social reform but supported the Church.

### *Lack of Party Discipline*

A second characteristic of the Third Republic was the weakness of party discipline. In contrast to his British counterpart, the Frenchman who won a seat in the Chamber of Dep-

uties was elected largely as the result of his own efforts and was less likely to ride into office because of the popularity of his party's leader or because of the efficiency of his national party organization. Election depended largely upon his own personality, his personal friendships, and the promises and favors he could offer his constituents.

Campaigns usually were quite informal. Outside Paris there were few spectacular rallies and mass meetings of the type to which Americans and Englishmen are accustomed. Instead the candidate, whether he represented a large city or a rural area, simply would let it be known that he would be in a café in a certain quarter of the city or in a certain village at a given time. Anyone who cared might come around, have a drink, talk, and ask questions. Workers, peasants, and small tradesmen, simple but shrewd, would make their appearance; the deputy might say a few words, perhaps assuring his listeners of his unimpeachable Republicanism and of the need for constant vigilance against the forces of the Right. Much of the time would be left for questions. Issues of national importance could be raised but more often the questioners were interested in local matters: why a certain road had not been repaired, why the tax on a local commodity had been raised, and perhaps why the deputy himself did not patronize local tradesmen. Thus to the deputy it was always obvious that he was regarded, not as a member of a disciplined national movement, but as the representative of the inhabitants and the interests of his district.

The importance of party lines was further weakened by the system of double balloting. If, on the first voting day, one of the candidates had a majority of all the votes cast in his district (that is, more votes than all of his opponents combined), he would be elected. Otherwise, there would be a second ballot one week later. Since there were four or five or six candidates in most districts (in 1932 there were 3,617 contestants for 615 seats), the second ballot was necessary in from one-half to two-thirds of the districts. On this ballot the candidate with the highest number of votes was elected, whether he had a clear majority or not.

During the week which intervened between

the two ballots there was active bargaining among the candidates. Voters whose favorite candidates stood toward the bottom of the list switched to one of the leading contestants, and the leading candidates tried to persuade the less popular ones to withdraw from the contest and to throw them their support. Frequently favors were promised to the smaller party groups and their leaders and candidates in return for their help. The result was that a successful candidate might feel gratitude to several party groups instead of being dependent upon just one.

One of the great strengths of the Leftist parties was the practice called "republican discipline" by which, on the second ballot, all of the Leftist parties were supposed to throw their strength behind the Leftist candidate who had the best chance of winning. Even when certain Leftist candidates (notably the Communists before 1936) refused to withdraw, many or most of their supporters would none the less switch to the Leftist with the best chance of election, usually the center candidate. Thus a Rightist candidate with a large plurality on the first ballot might find himself squeezed out on the second. In the 1932 election, for example, in the district of Poligny (Jura) the Rightist candidate received 5,946 votes on the first ballot; the Radical Socialist, 4,473; the Socialist candidate, 1,335; and the Communist, 575. On the second ballot, the Socialist candidate withdrew and received only five votes. The Communist candidate did not withdraw, but his votes fell to 101. The vote of the Rightist candidate rose to 6,334. But the victor was the Radical Socialist whose vote rose to 6,389 because of the help of those who had first voted Socialist or Communist.

In those districts where there were other Rightist or Center candidates, votes would also be merged on the Right; but the Rightist parties never succeeded in working the system with the same skill as the Leftist parties.

The result of such an electoral system on both the Right and the Left was that a successful candidate knew that election and re-election depended, not upon the support of his party machine as in Great Britain, but upon his ability to satisfy the leaders of several different political groups in his district. The dissatisfac-

tion of even one of these groups might in the future cost him his seat. In a crisis, therefore, in contrast to the member of the House of Commons, he was more likely to vote according to the public opinion of his local district than according to the decision of his party leaders. It was only on the extreme Left (in the Communist Party and to some extent in the Socialist) that party discipline was truly rigid. In other parties the prestige and power of the leaders was reduced by the fact that they could not with any certainty command the support of their nominal followers.

### *Coalition Governments and Ministerial Instability Under the Third Republic*

The multiplicity of parties meant that in France, unlike Great Britain and the United States, no one party could hope to win a majority of the seats in parliament. Every government necessarily was a coalition, representing several parties and dependent upon the support of several parties. Sometimes the withdrawal of the support of a single parliamentary group would mean the loss of a parliamentary majority and therefore the overthrow of a Ministry. After the famous Sixteenth of May, 1877, dissolution lapsed into disuse and the Premier was left at the mercy of the competing interests and ambitions of the parliament. Even the deputies of his own party were not bound to him by effective ties of discipline. Success depended upon his ability to balance and reconcile the interests of several party groups, and perhaps of several factions within his own party.

The result was a constant succession of ministerial crises. In the course of the seventy years from 1870 to 1940 France had more than one hundred different Ministries. In Great Britain a Prime Minister whose party won a clear majority of the seats in the House of Commons could count on four or five years in office, but French Premiers were lucky if they could stay in office a single year. In Great Britain a Cabinet could, and can, work out a coherent and forceful policy to be applied during the following three or four years. But in France a Ministry had to make its plans almost from day to day. Only rarely could it assume with



certainty that it would still be in power a few weeks hence. The presence of leaders of several parties in the Cabinet meant that any policy which offended even a single member of the coalition might have to be reframed. Members of the same Cabinet did not necessarily, as in Great Britain, share the same broad political assumptions, and they were not bound by loyalty to a Premier of another party. Instead, they tended to look upon one another as rivals for public favor and even as potential enemies. One of the parties to a coalition might be in the Cabinet one day and out of the Cabinet and in the opposition the next. In part, the ease with which Cabinets could be overthrown provided a powerful temptation to intrigue in the hope of improving one's position as the result of a Cabinet crisis.

The frequent shifts in Cabinets did not, however, involve a succession of giddy changes in policy. If, for example, one of the parties on the Left withdrew its support from a coalition, the coalition might regroup itself, either by adding strength from the Center (thereby shifting its policy a bit toward the Right), or by regrouping even farther to the Left than before. In either case, the new Ministry often contained many members of the old. The Premier himself might be the same, or he might yield his post to another minister (perhaps a member of his own party) and occupy instead an important ministry. It was quite possible for the same foreign minister to serve under several different Premiers; and it was not unusual for the bulk of ministers in one Cabinet to continue to serve in its successor, perhaps retaining the same posts, perhaps trading among themselves or with the newcomers.

This process of dropping a few ministers, adding a few ministers, and reshuffling the posts was popularly known as "replastering." Each time a Cabinet fell, the President of the Republic would try to find a possible Premier who could group around him men from enough parties to command the support of a majority in the Chamber of Deputies. The man to whom the Premiership was offered would then enter upon negotiations with different party groups, trying to find a policy on which all could agree and trying to distribute important posts in such a way as to satisfy all

of them. Some Premiers, drawn from the Center parties, were flexible enough to plan Ministries based first on a coalition of the Center and the Left and then of the Center and the Right. Sometimes the negotiations would go on for days, and sometimes the President would have to try four or five different Premiers before he could find one capable, at that moment, of forming a successful Cabinet. Several members of the same party might be potential Premiers—a situation inconceivable in Great Britain where the leader of the party is always Prime Minister when that party is in power.

Under this system considerable continuity in individual Ministries was likely and an extreme shift in policy from one Cabinet to the next unlikely, since many of the same people would be in both. But no one Cabinet or Premier could plan with certainty or vigor. Any policy might be destroyed by a Cabinet crisis resulting from the defection of a minor party on an entirely different policy. Indeed, any forceful policy at all was likely to offend one or another of the parties in the coalition. Men could compromise more easily on inaction than on action. Long-range planning, clear-cut policies, effective and decisive action all were hazardous.

Such a handicap was not too dangerous in times of peace and prosperity, and something might even be said for the representation in the Cabinet of such a variety of opinions. But in times of economic or political or international crisis—and such crises were chronic from 1933 on—almost any kind of action was better than inaction.

### *The Weakness of the Executive Under the Third Republic*

Frenchmen used often to ask whether it was the weakness of the parties which weakened the executive or whether it was the weakness of the executive which weakened the parties. Each form of infirmity, in fact, intermixed with and encouraged the other.

Many Frenchmen attributed the executive's weakness to the loss, after 1877, of the power of dissolution. Since deputies knew that their own seats were safe for four years, regardless of what happened to the Ministry, there was nothing but a sense of responsibility to keep

them from overthrowing a government for light or casual reasons. In addition, the executive's weakness was increased by the fact that the Senate, unlike the British House of Lords, claimed, and occasionally exercised, the power to overthrow a government.

As we have seen, however, the strength of the British Prime Minister lies not so much in his power of dissolution as in the fact that he is leader of a party holding a majority of the seats in the House of Commons. Private members know that they are largely dependent upon his popularity and upon the party organization for re-election. In France there was no possible parallel to this situation. A Premier could not even control his own party with certainty, not to mention the other parties necessary to a successful coalition.

As a result, the typical Premier in France was not the popular leader of a large party who commanded the loyalty of a disciplined following. Often he belonged to a very minor party or to no party at all. He was a man skilled in the making of combinations, in bringing together incompatible groups. He was a specialist in political appeasement and in the art of surviving from day to day. It was best for him to offend no one, to have friendships in all parties; and since the politician without enemies is likely to be a man without strong character or convictions, the government of France too often was led by men of insufficient vision who stood for little more than political opportunism.

It would be wrong, of course, to say that a system which produced a Clemenceau or a Poincaré was incapable of providing effective leadership. But such men were likely to come in time of crisis and to be tolerated only so long as the crisis lasted. Increasingly, it was apparent that the Chamber would not support a man of real stature with a definite program.

Thus, if there was any need which was generally recognized and which the framers of the Constitution of the Fourth Republic were called upon to meet, it was the creation of an executive strong enough to provide leadership without at the same time threatening the survival of democratic and parliamentary government.

### *Indirect Elections*

In France under the Third Republic, deputies loved to talk about the mandates and decisions rendered by "universal suffrage." In practice, however, neither the monarchists who assented to the organic laws which comprised the country's constitution nor the Republicans who remembered the plebiscitary exploits of the two Napoleons and the popular support for Boulanger felt much tenderness toward direct popular votes. Deputies were elected directly by their constituents; but in other respects political leaders showed a decided preference for indirect rather than direct democracy.

As a result, the President, who was intended to occupy a position of dignified impotence similar to that of the King in England, was elected by the members of the Chamber of Deputies and of the Senate sitting in joint session as the National Assembly. There was to be no possibility that a popular leader, after a stunning popular electoral triumph, might overthrow the parliament. The President was to be the creature of parliament, which might be counted upon to select safe men. Significantly, the National Assembly repeatedly refused to elect men of the first stature, like Georges Clemenceau and Aristide Briand, who would have increased the prestige—and the power—of the presidency.

The Senate too was chosen by indirect election. In each department there was an electoral college made up of officials who had themselves been elected to public office: deputies from the department, members of the general council of the department, members of the *arrondissement* councils of the department, and delegates chosen by municipal councils within the department. The elections were arranged in such a way as to favor the small towns, the stronghold of moderate Republicanism, as against the big cities. One-third of the members of the Senate were elected every three years to serve for terms of nine years—an arrangement which kept the Senate from responding quickly to any change in public sentiment, since the voters would first have to elect new officials for their local governments who would, in turn, over a period of years replace the Senate.

Finally, the French voter had a less direct part than the British voter in the choice of Ministries. Under Great Britain's two-party system, one party generally receives a clear majority of the seats in the House of Commons, and its leader inevitably becomes Prime Minister. Therefore, when the British citizen votes for his local candidate for Parliament, he knows that he is really voting for the party and the Prime Minister he wants to see in power. But in France it was clear that no party could win a majority, and it was impossible to predict what kind of coalition would be formed or who would lead it. The Premier was not the choice of the people but a man who could make a combination of parties which the Chamber of Deputies would support. Thus the British Prime Minister is in fact chosen by the voters of the country; but the French Premier was the creature of the Chamber of Deputies.

### *Lack of Responsibility*

The cumulative effect of all these characteristics was to create a system which was responsible in form but not in fact. It is true that the Cabinet was responsible to the Chamber of Deputies and, if the Senate insisted, to the Senate. But responsibility in any deeper sense was lacking.

In the first place, the opposition was not responsible. In Great Britain it is assumed that if the government of one party is defeated, the party which defeats it must take office in its turn and make good its promises and criticisms. If it does not like the way the government handles things, it must be prepared to do better itself. It cannot criticize the government for not doing the impossible, because it may be asked to prove its words. But in France under the Third Republic it was not unusual for a government to be overthrown through the combined efforts of completely incompatible groups. A government of the Center, for example, might be defeated by an alliance of Rightist and Leftist groups. Yet the Rightist and Leftist groups would never be able to form a joint Ministry of their own. Those who defeated the government felt no responsibility for replacing it. The old Cabinet would be "replastered," and most of those who

had voted against it would continue to vote against the new Cabinet, attacking and criticizing without presenting any effective alternatives.

Even more serious was the difficulty of enforcing the responsibility to the electorate. Usually, the first Ministry to be formed after an election reflected more or less accurately the opinion expressed in that election. The leader of the party receiving the largest vote might be asked to form the first Ministry, and the Chamber would hesitate for a while to vote against a Ministry which seemed to have the support of public opinion. Yet within a few months the honeymoon would be over. Dissident deputies and parties would return to the game of overthrowing Ministries, and eventually a Cabinet would come to power whose political tendencies differed considerably from those presumably endorsed by the voters (the drift being inevitably from the Left to the Right). Such an occurrence would be impossible in Great Britain, unless a new election were held. But in France there was no corresponding consultation of the people.

Because each government was a coalition, because deputies belonging to the same party did not necessarily vote together, and because, between elections, there might be several different Ministries based upon different political combinations, it was peculiarly difficult for the voter to judge parties by their record. If he disliked the policy of a Cabinet, he still could not tell which, if any, of the parties composing it was responsible, for only those can be held responsible who have power; and in France no party clearly held power.

To say this is not to suggest that the political institutions of the Third Republic were irrational. In terms of political theory, it would not be difficult to justify a system which represented a blending of political desires and tendencies rather than the crude dictation of a majority to a minority. Particularly in a country like France, where so many divisions existed, it might be maintained that the only truly representative government was one which represented the inherent complexity of French politics. Regardless of the theoretical justification, however, the practical fact was that such a government lacked strength and decisiveness

at a time when these qualities were more important than any others.

#### IV. FROM THE THIRD REPUBLIC TO THE FOURTH

##### *The End of the Third Republic*

The military disaster of 1940 left France stunned, bewildered, and divided; and the events of the summer of 1940 are to be understood in terms rather of confusion and despair than of deliberate betrayal. Yet the consequences, in certain respects, would have been much the same in either case.

On June 16 a new Cabinet was formed under the leadership of Marshal Pétain, a hero of World War I but a man now known for his clerical and authoritarian sympathies. Negotiations were promptly opened for an armistice, which was signed on June 22, and the National Assembly (the Chamber of Deputies and Senate in joint session) was convened at Vichy to ratify the agreement. At the same time, the demand was made that the Assembly vote "all power to the Government of the Republic under the authority and signature of Marshal Pétain," who was to frame a new constitution (to be ratified by popular vote) guaranteeing the rights of "work, family, and native country"—a vague but significant substitution for the traditional republican trinity of liberty, equality, and fraternity. Only 80 of the members of the National Assembly dared to vote against this grant of authority; 569 accepted it.

##### *The Vichy Regime*

Marshal Pétain never promulgated his new constitution; his government throughout its life had its legal basis in the provisional grant of powers. However, he proceeded to issue a series of "Constitutional Instruments" which repealed the constitutional provision for the election of a President, abolished the responsibility of the government to the legislature, and ended its legislative powers. From this time on, Pétain himself held all legislative power, and ministers were responsible to him.

The announced aim of the Pétain govern-

ment was to bring about a national regeneration, free of the vices which were thought to have destroyed France under the Third Republic. Masonic lodges (which were regarded as a Republican political machine) were dissolved and their members deprived of government office. Organizations of workers and employers were disbanded, and state organization of industry was introduced under organizing committees which rapidly fell under the control of big business. Attempts were made to introduce religious education into the schools, and subsidies were given to Catholic schools. In addition, under pressure from the Nazis, the government introduced anti-Semitic policies of such severity as to evoke formal protests from both Catholic and Protestant leaders.

##### *The Resistance and the Liberation*

At first, the growth of any movement of resistance to the Pétain government and the victorious Germans was slow and difficult.

Until November 1942 (when the entire country was occupied by German troops) France was divided into two zones. The German Army occupied the northern half of the country and a strip along the Atlantic coast, while the remainder of the southern half ("Unoccupied France") retained a semblance of independence. For a time, especially in the southern part, there was a tendency to wait and see whether the war might not end quickly and whether the Pétain government might not be successful in restoring France.

From the very beginning, however, General de Gaulle, at the time comparatively unknown to the masses of the French people, rallied a group of "Free French" in London and appealed to the people of his country to resist. At first, he had little popular support, but as people recovered from their bewilderment, as the Pétain government revealed its undemocratic character, as the Germans drafted labor for work in Germany, and as the stubborn British defense showed that the war was not over, a resistance movement grew. Many young men escaped to join De Gaulle's army, and many more joined in the work of the underground. After the German attack on the Soviet Union in the summer of 1941, the French Communists took

an outstanding part in the Resistance movement, but the movement included men of all other political opinions, from extreme Rightists to liberal Catholics and Socialists. Workers and intellectuals provided the most recruits, and dominant political opinions were decidedly to the Left. The political and economic program of the National Council of Resistance (which combined all of the leading resistance groups) called for the establishment of a provisional republican government headed by General de Gaulle; the re-establishment of democracy with full freedom of thought, conscience, and expression, and with full equality of all citizens before the law; and the institution of social and economic democracy through the destruction of the great "feudal" economic and financial interests and through a planned economy under which private interests would be subordinated to the general interest.

About the political ideas of General de Gaulle himself, there was considerably more doubt. It was known that he was a pious Catholic, and as an army officer he would naturally have been suspect to many good Republicans. Yet he proclaimed his loyalty to the Republic, and as the day of liberation approached he came personally to symbolize the spirit of the Resistance and to enjoy a prestige which alarmed those Republicans who continued to fear strong men in general and generals in particular.

With the liberation of France in 1944, General de Gaulle became head of the Provisional Government. The first fourteen months following the liberation have been called a "dictatorship by consent." A consultative Assembly existed, but it was purely consultative. The Cabinet was chosen by De Gaulle and was responsible to him alone.

### *The New Constitution*

The chief political problem at this time was the establishment of a new government. Whatever their other differences, the one thing on which practically all Frenchmen were agreed in the first months of the liberation was that France could not return to the constitution of the Third Republic. When the first legislative assembly was elected in October 1945, the people, by a vote of eighteen and one-half million

to seven hundred thousand, decided that one of its tasks should be the framing of a new constitution, and France was governed for several months by a combined legislature and constitutional convention, which was known as the "Constituent Assembly."

But although the people were agreed on the need for a new constitution, they were not agreed upon its nature. The different political parties had not developed their ideas carefully, and inevitably their attitudes were influenced not just by their political principles but by the immediate demands of political strategy.

When the Third Republic collapsed so ignominiously, it was natural for French thinkers and statesmen to engage in an earnest study of the causes of and remedies for France's institutional weaknesses. Perhaps the most popular suggestions called for some strengthening of the executive according to a somewhat incongruous blending of American and British practices. It was urged that the President be elected by direct popular vote, a device which would increase his prestige and which might, by encouraging parties to unite behind a common candidate capable of winning a majority of the votes, facilitate the formation of broader political groupings able to support a strong government. In addition, it was proposed that the Premier (acting through the President) be empowered to dissolve the legislature, as does the British Prime Minister, and that the Senate be deprived of any power to overthrow a Cabinet. It was also hoped that a system of proportional representation, by emphasizing the party allegiance of candidates, would strengthen the party organizations and therefore the Cabinets which they supported.

Several of these proposals, however, were extremely controversial. As a matter of principle, most Leftists were opposed to any great strengthening of the President. The memory of the two Napoleons and of General Boulanger was still fresh, and there was a strong tradition that only parliament should be the spokesman of "universal suffrage"; any system of checks and balances seemed designed to frustrate the will of the people by restricting the power of a legislative body chosen by the sacred device of "universal suffrage." Considerations of strategy reinforced this view. In the

election of October 1945 more than half of the votes were cast for Communist or Socialist candidates. If, as the Communists then hoped, the two parties could be united in a single workers' party under Communist leadership, the Communists would be able to control parliament. But it was almost certain that, in a direct presidential election, General de Gaulle (who, whatever the precise nature of his other views, was extremely distrustful of Communists) would be the victorious candidate. The moral, therefore, was that as much power as possible should be given parliament, and the executive should be kept weak and deprived of any direct popular mandate. Nor should a second chamber of parliament be allowed to check the will of the first.

In contrast to the Communists, the progressive Catholic M.R.P. (which had won almost as many votes as the Communists in the October elections and which at this time was devoted to De Gaulle) favored a stronger executive and a second chamber; while the third strong party, the Socialists, stood between the two and repeatedly proposed compromises which, in general, were closer to the Communist position.

#### THE FIRST VERSION

As a result, the first version of the constitution as presented to the voters in May 1946 placed almost complete authority in the hands of a single chamber, the National Assembly. There was no second chamber at all, although two advisory organs without real power, an Economic Council and the Council of the French Union, were set up. Both the President and (in contrast to the Constitution of the Third Republic) the Premier were to be elected by the National Assembly. Some provision was made for a highly restricted power of dissolving the National Assembly and calling new elections, but at the time of dissolution the Premier had to relinquish his own power to the President of the National Assembly. A Cabinet, however, was obliged to resign only after the Assembly had passed a motion of censure or refused to pass a motion of confidence—and since neither vote could be taken until a day after the making of a motion, the over-

throwing of a ministry was less likely to be a casual and unconsidered action.

General de Gaulle, who had resigned as President in January 1946 following a series of controversies with the Left, maintained silence on the issue of ratification; but the M.R.P. and the few remaining Radical Socialists, as well as the Rightist political organizations, urged a negative vote. The Communists and Socialists, who had won a majority of the votes in the preceding election, urged ratification, as did the Communist-controlled C.G.T.

To the general surprise, the constitution was rejected by a narrow margin. Apparently, enough Socialist voters failed to follow their leaders to provide a hostile majority of more than one million votes (9,109,771 votes, or 47 per cent of the total, favored the constitution; 10,272,586, or 53 per cent, opposed it). A new Assembly had therefore to be elected and a new constitution drafted.

#### THE SECOND TRY

In the new Constituent Assembly, elected in June 1946, the M.R.P. replaced the Communists as the largest party, but the Communists and Socialists, when supported by deputies from "Overseas France" (p. 411) were still able, by a very slight margin, to outvote their opponents. As a result, the second version of the constitution was very much like the first, only a few not materially important concessions being made. A second chamber (the Council of the Republic—see p. 323) was now created, but its powers were drastically limited. The National Assembly retained the sole power to make law. The power of appointing the Premier was restored to the President, but the Premier had to be approved by the National Assembly before he could set up his Cabinet. The process of dissolution was made slightly easier, and the Economic Council, together with a High Council of the French Union and an Assembly of the French Union (p. 411), continued in an advisory capacity. Essentially, then, power continued to be concentrated in the National Assembly, and the executive remained very weak. Nonetheless, the M.R.P. (even while announcing its intention to seek amendments) decided to join with the Communists and Socialists in urging the voters' acceptance. General

# STRUCTURE OF THE FRENCH NATIONAL GOVERNMENT according to the Constitution of 1946

## EXECUTIVE

**PRESIDENT OF THE REPUBLIC**  
Elected by parliament for seven-year term.  
Re-eligible once.  
All acts must be countersigned by President of Council and by one minister.  
Promulgates laws (10-day suspensive veto).  
Signs and ratifies treaties.  
Appoints most high civilian and military officials.  
Issues pardons.  
Presides over Council of Ministers, High Council of Judiciary, Constitutional Committee, High Council of National Defense.  
Decreases dissolution of National Assembly after decision of Council of Ministers.

**COUNCIL OF MINISTERS (Cabinet)**  
**President of the Council (Premier)**  
Selects ministers.  
Ensures execution of laws.  
Supervises armed forces and national defense.  
Appoints all civilian and military officials except those named by President of Republic.  
Initiates laws in National Assembly.

**Ministers**  
Individually and collectively responsible to National Assembly.  
Countersign acts of President of Council which concern their department.  
Council may decide dissolution of National Assembly after two ministerial crises in 18 months (except during first 18 months of legislative term).

## LEGISLATIVE

**COUNCIL OF THE REPUBLIC**  
(320 members)  
Elected by indirect suffrage by "communal and departmental collectivities," with National Assembly, elects President of Republic.  
Weak suspensive veto over laws.  
Members may introduce bills for discussion by National Assembly.  
Opinion required before state of war can be voted by National Assembly.

## PARLIAMENT

**NATIONAL ASSEMBLY**  
(627 members)  
Elected for five-year term.  
Confirms newly designated President of Council.  
May overthrow Cabinet by absolute majority of total membership (after one-day cooling-off period).  
Possesses sole legislative sovereignty (which cannot be delegated).  
Votes state of war.  
Initiates constitutional amendments.

**ECONOMIC COUNCIL**  
(169 members)  
Chosen by various interprofessional groups.  
Opinion required on proposed laws of economic or social nature (except budget).  
Advises Council of Ministers on national economic plan.

## JUDICIAL

**HIGH COUNCIL OF THE JUDICIARY**  
(14 members)  
Chosen by National Assembly (6), professional judges (4), President of Republic (2); President of Republic and Minister of Justice *ex officio*.  
Appoints magistrates, except the parquet (D. 381.)  
Supervises judicial administration.  
Advises President on pardons.

**HIGH COURT OF JUSTICE**  
(33 members)  
Elected by National Assembly.  
Tries President of Republic or ministers when impeached by National Assembly.

**CONSTITUTIONAL COMMITTEE**  
(13 members)  
Chosen by National Assembly (7), Council of Republic (3); President of Republic, *ex officio*, and of Council of Republic.  
Examines new laws for compatibility with body of constitution.



de Gaulle, however, demanded the rejection of the constitution, and in this attitude he was supported by the Radical Socialists and the parties of the Right.

The results of the election were curiously indecisive. In the referendum of October 1946, 9,002,287 voters (53.6 per cent) supported the constitution; 7,790,856 (46.4 per cent) voted against; and 7,775,893 eligible voters remained away from the polls. Thus the Constitution of the Fourth Republic came into being with what General de Gaulle and his supporters claimed was the support of only 37 per cent of the population.

### *Comparison of the Constitutions of the Third and Fourth Republics*

The Constitution of the Fourth Republic was drafted within the shadow of the Third Republic. To the foreigner remembering the storms of abuse heaped on the Constitution of the Third Republic after the collapse of 1940, it is the similarities between the two regimes which are most striking, not the differences. Yet certain changes were instituted in the new Constitution which sought to some degree to avoid the most unsatisfactory features of executive-legislative relations of the Third Republic.

Most prominent is the concentration of political power in the lower house, now named the National Assembly. Under the Third Republic, the Senate's share in the legislative process made it at least the co-equal of the Chamber. Moreover, Cabinet and Ministers were held accountable to both Chambers alike, and many a Government fell because of an adverse vote in the Senate. The Senate also shared in the election of the President of the Republic. In one particular, the Senate was intended to have even more power than the Chamber of Deputies, since it was with the advice and approval of the Senate that the President was empowered to dissolve the Chamber; but this power early fell into disuse (see p. 256). Nonetheless the Senate had vast prestige as well as influence under the Third Republic, and it was widely felt among the framers of the new Constitution that the worst fault of the former regime had been this excessive power.

Under the Fourth Republic the second

chamber, the Council of the Republic, is a very pale shadow indeed of the old Senate. Cabinet responsibility is specifically restricted to the National Assembly, and thus the Council of the Republic cannot cause the downfall of a government. Moreover, its legislative activities are sharply curtailed. The Constitution declares that "The National Assembly alone shall vote the laws." The Council of the Republic cannot even discuss bills which it initiates itself until they have been voted in first reading by the National Assembly. It can hold up legislation passed by the National Assembly for not more than two months, a much shorter suspensive veto than that possessed by the House of Lords. The only potential power possessed by the Council of the Republic lies in the constitutional requirement for an absolute majority in the Assembly if it is to override amendments passed by the Council by a similar vote. Thus the second chamber is extraordinarily limited in function. Moreover, the two new "consultative organs," the Economic Council and the Council of the French Union, though potentially useful in themselves, are not part of Parliament, and thus provide no direct restraint on the National Assembly.

By making it impossible for the second chamber to overthrow a Cabinet, the Constitution of the Fourth Republic places the burden of responsibility for executive-legislative relations squarely upon the National Assembly. In an attempt to make more direct the relation between Premier and Assembly, the Premier-designate is required to present himself and his program before the National Assembly and to win its approval by an absolute majority on a roll-call vote before he brings together his Cabinet. To prevent snap overthrows of governments, there are one-day cooling periods before votes of confidence can be taken. Moreover, an absolute majority vote is needed in the National Assembly on a motion of confidence or censure before the Cabinet is forced automatically to resign. Potential power of dissolution, exercised by the President on the advice of the Cabinet, is also provided by the Constitution, but it can operate only under very restricted conditions: the National Assembly cannot be dissolved under any circumstances until it has been in existence for eighteen months; even

after that period, the power of dissolution can be used only if the Assembly overthrows two Cabinets within an eighteen month period. All these provisions are somewhat half-hearted efforts to create more Cabinet stability, but they depend for their effect on the character of party discipline under the Fourth Republic and the degree to which parties are willing to work together for effective government.

Certain changes were also made in the formal provisions for the President of the Republic. He remains as before the head of the state with the functions necessarily accruing thereto: promulgation of laws, accrediting and receiving ambassadors, titular Commander-in-Chief of the armed forces, and so forth. His former political power in selecting the Premier seems somewhat reduced by the provision that the latter has formally to be approved by the National Assembly before forming a Cabinet, but the difference here is perhaps more apparent than real. Of legislative powers, he has almost none at all, for though he can return bills to the Assembly for a second consideration (see p. 337), the bills can be repassed by a simple majority. It is rather in executive functions that the President of the Republic has gained under the new Constitution. In the Third Republic, he presided only over formal sessions of the Council of Ministers; the Constitution of the Fourth Republic specifically states that he presides over this body, and more sessions seem to be held with him than was formerly the practice. Moreover, the President of the Republic is also authorized to keep the records of these meetings, thereby designating him as the practical as well as formal element of continuity in case Cabinets fall with anything like the regularity of their fall under the Third Republic.

Whether these changes will make the Fourth Republic in practice substantially different from the Third remains to be seen. Like all constitutional systems, that of the Fourth Republic is but a framework which will be molded by the parties and personalities of the day.

#### THE MOVEMENT FOR AMENDMENT

Because of the slim margin in favor of its ratification, the Constitution of the Fourth Republic, in great contrast to the British and American Constitutions, does not command

the devotion or even the loyalty of the mass of French people. Under the circumstances, the provisions for amendment take on special significance.

The process of amendment in France is considerably easier than in the United States, although the procedure sounds far more complicated. The first step is for the National Assembly to pass by an absolute majority a resolution calling for amendment, and within three months to have a second reading of the same resolution, which must also be passed by an absolute majority of the Assembly, unless the Council of the Republic meanwhile has adopted the resolution by an absolute majority. Thereafter a bill embodying the revision is prepared and must pass in the ordinary way in both chambers, except that it needs a three-fifths vote in both the National Assembly and in the Council of the Republic or else a two-thirds majority in the National Assembly alone. If neither condition can be met, the amendment is submitted to the voters in a referendum. The existence of the Council of the Republic, however, cannot be changed, even by a two-thirds vote of the National Assembly, unless the Council of the Republic itself consents or unless the voters approve the change in a referendum. Moreover, no constitutional revision can be undertaken if any part of the mainland of France is occupied by foreign troops, a provision designed to prevent a repetition of what happened in July 1940. Finally, the Constitution provides that the republican form of government itself cannot be amended.

Since there is no process equivalent to judicial review in France, the Constitution has one additional safeguard: A Constitutional Committee, made up of seven members elected by the National Assembly and three members elected by the Council of the Republic, in both cases from outside their own membership, with the presidents of both bodies *ex officio* and presided over by the President of the Republic, decides whether laws passed by the Assembly are in conformity with the Constitution. The President of the Republic and the Council of the Republic, by an absolute majority of its members, may jointly ask the committee to look into the question of constitutionality. If the National Assembly and the Council of the

Republic cannot be brought to agreement on the issue of constitutionality, the committee itself decides whether or not the law conflicts with the Constitution. If the law does, the National Assembly is asked to reconsider its action. And if the National Assembly persists in its original intention, the Constitution must be revised in accordance with the procedure outlined above.

The one occasion on which the Constitutional Committee performed an important function was in June 1948 (during the Assembly elected in 1946), and then on an issue concerned not with revising the Constitution but with the interpretation of certain provisions of the Constitution. According to Article 20, whenever the Assembly adopted the procedure of Urgent Discussion (see p. 321), the Council was to give its opinion in the same period of time as was provided for debate by the rule of the Assembly. In one particular instance, the Assembly left the Council only 33 hours for its deliberations, and the Council protested. The Constitutional Committee upheld the Council on the issue and the Assembly subsequently placed a minimum limit of three days for its proceedings under these rules.

More significant is the fact that the Assembly and Council voted a resolution for amendment of eleven articles—7, 9, 11, 12, 14, 20, 22, 45, 49, 50, and 52—in November 1950 and January 1951 respectively. Though further steps were then left to the Assembly elected in June 1951, the action reflected the growing dissatisfaction with the way various provisions of the Constitution had been working. In particular, the resolution for amendment envisaged some preliminary consideration of bills by the Council, and exchanges between the chambers; the removal of the requirement for an absolute majority in the Assembly on a bill for which the Assembly had rejected amendments proposed by the Council; the restriction of parliamentary immunity to the period in which Parliament is sitting (a provision aimed at Communist deputies who had been abusing their positions); simplification of the procedure for investiture of a Premier; removal of the necessity of an absolute majority for votes on investiture, confidence, and censure; and change in the provisions for the selection of an interim govern-

ment during a dissolution and the make-up of the bureau of the National Assembly. The material in the succeeding chapters indicates the reasons why changes were proposed in all these instances. Yet it must also be remembered that such mechanical changes, perhaps for the very reason that they would make the present system work more satisfactorily and safeguard it against the pressures of undemocratic groups, are bound to be unsatisfactory to many Frenchmen, including those on the extreme left who seek to bring the French governmental system under their exclusive control, those on the right who still yearn to return to a Constitution like that of the Third Republic, and the Gaullists to whom "the rule of parties" is itself abhorrent.

## V. FRENCH POLITICAL IDEAS

The troubled history of the Third and Fourth Republics is evidence of the extent to which political principles, to a far greater degree than in Great Britain, remain in France the subject of bitter political controversy. Today the contest between parties is comprehensible only if one has some knowledge of the great political traditions which dominate the thinking of the contending groups.

### *The "Ideas of 1789"*

The French Revolution, which provided French Republicanism with its political creed, shared much of its political philosophy with the American Revolution. Some of its leaders, like Lafayette, had fought for American independence, and many of its thinkers had been influenced by the Declaration of Independence and the Virginia Declaration of Rights. Both American and French liberals had read the writings of John Locke, and Americans like Thomas Jefferson had formed close friendships with men who prepared the intellectual program of the French Revolution.

### THE ENLIGHTENMENT

In contrast to the United States, however, there were two distinct intellectual currents in the French revolutionary stream. The one which ran closer to American thought was that

of the philosophers of the "Enlightenment," a group of thinkers in the middle and later part of the eighteenth century who believed that man was naturally a good and reasonable creature endowed with inalienable natural rights. According to their creed, man, by using his reason, could discover the principles of a just society, and being good, he would act upon them. Once he was freed from political and religious tyranny, there would be constant progress toward a perfect society. Thus the political philosophy of the Enlightenment was one of reason, individualism, humanitarianism, confidence in human progress and perfectibility, love of mankind, and hatred of religious superstition and political tyranny.

#### THE INFLUENCE OF ROUSSEAU

The second current, which flowed from the thought of Jean Jacques Rousseau (1712-1778), was also characterized by a passionate hatred of tyrants. But where the philosophers of the Enlightenment exalted reason, Rousseau trusted to the uninstructed instinct of the ordinary citizen; and where the philosophers insisted upon the natural rights of the individual, Rousseau emphasized the interest of the community as a whole. Rousseau believed that the highest authority in any community was the *general will*, the content of which was determined by a direct vote of all citizens. Men were to vote, however, not according to their selfish interests but according to their understanding of the interest of the community. It was inconceivable to Rousseau that a community of free men (for Rousseau, too, believed in the natural goodness of man) should choose to pass tyrannical or unjust legislation. The ordinary citizen might be mistaken in his judgment, but he would always desire the welfare and freedom of all. Therefore, if ever a minority should differ from the majority, the minority should submit; and if the minority refused to submit, it should be "forced to be free." For Rousseau, unlike the authors of the Declaration of Independence, there were no "inalienable rights." Popular sovereignty (that is, government by popular vote) and the rule of the majority were the important considerations. Where the philosophers of the Enlightenment were chiefly concerned with political liberty and its protection against the

government, Rousseau was chiefly concerned with political equality and the right of all men to participate in their government.

#### THE DECLARATION OF THE RIGHTS OF MAN AND OF THE CITIZEN

The French Declaration of the Rights of Man and of the Citizen (1789), which is the counterpart of the American Declaration of Independence, contained elements of both theories. The preamble, following the doctrine of natural rights, proclaimed that "forgetfulness or scorn for the rights of man are the only causes of public misfortunes and the corruption of governments." The first two articles maintained that "Men are born and remain free and equal in rights; social distinctions can only be founded upon common utility," and that "The aim of every political association is the conservation of the natural and imprescriptible rights of man; these rights are liberty, property, security, and resistance to oppression."

Article 3, however, introduced a Rousseauistic element: "The principle of all sovereignty resides essentially in the Nation; no body, no individual can exercise authority which does not expressly emanate from it." Article 4 to some extent combined the two schools, declaring that "Liberty consists in being able to do everything which does not harm others: thus the exercise of the natural rights of man has no limits other than those which assure to other members of society the enjoyment of the same rights; these limits can only be determined by law." Article 6 (apart from its provision for representative government) followed Rousseau: "Law is the expression of the general will; all citizens have the right to participate personally, or by their representatives, in its formation; it should be the same for all, whether it protects or punishes. All citizens, being equal in its eyes, are equally eligible for all dignities, positions, and public offices, according to their capacity, and without other distinction than that of their virtues and of their talents."

Other articles in the Declaration protected men from arbitrary arrest, imprisonment, and punishment; guaranteed freedom of thought, including religious thought; proclaimed "the free communication of ideas and opinions" to be "one of the most precious rights of man";

guaranteed to each citizen the right to "speak, write and print freely"; and proclaimed property to be "an inviolable and sacred right." Except for the guarantee of property and of the "career open to talent" and a provision calling for popular consent to taxation, the concern of the framers of the Declaration was with political rather than economic rights.

During the French Revolution many of these rights were violated in the most flagrant way. But the "ideas of 1789"—liberty, equality, popular sovereignty, the career open to talent, government under law—remained the heart of traditional republican doctrine in France. The continuing importance of these ideas is indicated by the preamble to the new French Constitution of 1946, which begins with the words:

On the morrow of the victory of the free peoples over the regimes that attempted to enslave and degrade the human person, the French people proclaims once more that every human being, without distinction of race, religion or belief, possesses inalienable and sacred rights. It solemnly reaffirms the rights and freedoms of man and of the citizen consecrated by the Declaration of Rights of 1789 and the fundamental principles recognized by the laws of the Republic.

### **The Conservative Reaction**

#### **THE EARLY TRADITIONALISTS**

The French Revolution, with its culmination in the Reign of Terror, brought shock and disillusionment to many of the French people, and it was natural for a school of thinkers to appear who defended the monarchical tradition and challenged the political assumptions on which the Revolution had been based. Never very influential so far as the mass of the French people were concerned, certain of their ideas have nevertheless continued to dominate the thinking of leaders of the upper classes and of literary and intellectual circles.

The most prominent of the early Traditionalists were the *Vicomte de Bonald* (1754-1840) and the *Comte de Maistre* (1753-1821). The former, challenging the idea that men desired "progress," insisted that their real desire was for the peace, stability, and order of a hereditary society. Men, he believed, were basically unequal. The happiest society is one in which the

place of each person is determined by tradition and inheritance, and in which each stays in that place. The best society is one in which a hereditary monarch wields the executive power; in which there are permanent social distinctions between a hereditary nobility and the commons; in which there is an established church; and in which there is a harmonious balance between monarch, nobility, and independent judiciary. Order and authority he regarded as established by God. To revolt against the established order was to resist His will.

Maistre, the more influential of the two thinkers, attacked another pillar of the faith of the Enlightenment: the belief in the power of reason and in the ability of men to use their reason in order to plan and control their destiny. Like Burke (p. 33) he taught that inherited institutions and practices and even inherited prejudices represent a wisdom far greater than that attainable by the use of human power of reason. Human institutions, instead of being shaped by men, are the product of many different social, economic, and political forces which men cannot control and which mold the minds of men.

In contrast to Rousseau's belief in direct popular government, Maistre maintained that in all governments it is the able and energetic few who rule. Monarchy he thought to be the best of all governments, and government he held to be naturally absolute and unlimited. "There can be no human society without government," he wrote, "no government without sovereignty, no sovereignty without infallibility." And although he agreed that temporal sovereigns, unlike the Pope, were not infallible, he thought a belief in their infallibility to be the only sound foundation for an orderly society.

#### **THE NEWER CONSERVATIVES**

Where the earlier post-Revolutionary Traditionalists centered their loyalty upon a hereditary monarchy, an aristocratic order, and an established church, the later Traditionalists (while not necessarily rejecting these ideas) added an extreme nationalism as one of the essentials of the conservative faith. *Maurice Barrès* (1862-1923), one of the most popular of French novelists, continued the warfare against liberal individualism by insisting that the indi-

vidual, far from shaping himself, is the product of his ancestry, his national traditions, and his native soil. The man who cuts himself loose from these influences is rootless and self-destructive, denying the core of his own being. Detesting and fearing foreigners, Barrès preached a doctrine of veneration for one's ancestors and one's dead, of reverence for the French language and the French earth. Men were to identify themselves with their family, their village, and their province. Barrès' own affection for his native province of Lorraine, where repeated invasions had encouraged a particularly strong variety of patriotism, led him to believe that the road to French patriotism lay through devotion to one's locality. A religious skeptic, he nevertheless honored and defended the Catholic Church as the religion of his ancestors. In politics his only standard was that of unquestioning nationalism. Where the philosophers of the Enlightenment had preached the religion of humanitarianism, of love for mankind, of liberty, truth, and justice, Barrès judged all issues in terms of French power and glory. "Every question," he wrote, "must be solved in sole relation to the interests of France."

A somewhat different brand of nationalism was that of *Charles Maurras* (1868- ). Unlike Barrès, Maurras is a native of Provence, that province of France in which the classic influence of Greece and Rome is still the strongest. To Maurras, France was the representative and defender of the classic spirit against the barbarians of the Teutonic and Anglo-Saxon world. Personally a skeptic (the Vatican eventually denounced both him and his organization, the *Action Française*) he saw in the Catholic Church, not the institution of Hebrew Christianity (which he detested), but the preserver of the classic tradition of ancient civilization. As opponents of this tradition, he attacked not only those Frenchmen of foreign descent (to whom he applied the Greek word "metic") but Protestants and Jews as well. To him the Republic and the Revolution were something un-French, the products of a foreign and Protestant tradition (Rousseau had been, in origin, a Swiss Protestant from Geneva). He wanted to restore the Old France of the monarchy, and of classic order and authority. Stability was

more important than justice. At the time of the Dreyfus affair (p. 257), he declared, "Anything which disturbs the public order is an injustice, so that true justice is to respect public order." And when the army officer who had forged some of the evidence incriminating Dreyfus confessed and committed suicide, Maurras wrote in tribute: "Our bad half-Protestant education has kept us from estimating justly so much moral and intellectual nobility. . . . But your unlucky forgery will be recognized among your finest feats of war"; for the "unlucky forgery," Maurras insisted, could injure only the enemies of France. The Maurrasian doctrine of "integral nationalism" ("the exclusive pursuit of national policies, the absolute maintenance of national integrity, and the steady increase of national power—for a nation declines when it loses military might") made any conception of universal justice or morality a delusion if not an irrelevancy. Liberty, truth, and similar values became inconsequential in comparison with the worship of national power.

Maurras has never commanded a popular following. But the beauty and clarity of his style and the force of his intellect has won him authority in French intellectual circles. He lived long enough to be one of the supporters of the anti-Republican and antidemocratic government of Marshal Pétain, paradoxically preferring defeat of the Republic to the victory of France, and he is now imprisoned for his collaborationist activities. Somewhat ironically, the successors of Barrès and Maurras today are rallying to General de Gaulle, the erstwhile opponent of Marshal Pétain, as a symbol of religious orthodoxy, political order and authority, and opposition to sweeping social reform.

## Socialism and Communism

### EARLY SOCIALISTS

Although the Industrial Revolution came later to France than to England and was never so complete, socialist thought flourished in France from an early date. Before the general ascendancy of Marx (pp. 424-26) the influence of thinkers like *Saint-Simon* (1760-1825), *Fou-*



rier (1772-1837), *Louis Blanc* (1811-1882), *Blanqui* (1805-1881), and *Pierre-Joseph Proudhon* (1809-1865) extended far beyond French borders.

The teachings of the early French Socialists were highly varied in detail, but the majority of them shared certain general characteristics. For the most part, they were true children of the Enlightenment, believing in reason, progress, and the goodness of human nature. They thought that social evils resulted from the wickedness not of men but of their institutions; yet, with the exception of *Blanqui*, they desired a peaceful reformation of society. All of them appealed to right and justice (although to Marxists these ideas were simply the reflection of a class interest), and in most instances their concern was with the building of a new society rather than with the violent destruction of the old. Often they believed that specific reforms (the introduction of social workshops as advocated by *Louis Blanc* or the organization of model communities known as phalansteries according to the plans of *Fourier*) would provide the remedy for the worst social evils. Some of them were opposed to any growth in the authority of even a democratic government; and *Proudhon*, whose influence was particularly strong among French workers, attacked Communist proposals for state planning and organization, speaking of the "yoke of iron" which Communism "fastens upon the will, the moral torture to which it subjects the conscience," and the "pious and stupid uniformity which it imposes upon the free, active, reasoning, un-submissive personality of man."

#### MARXIAN SOCIALISM

Even after Marxism, toward the end of the nineteenth century, had come to be the predominant type of socialism in France, there continued to be a strong humanitarian and reformist current in French Socialist thinking. *Jean Jaurès* (1859-1914), who more than anyone else personified French Socialism, was ready to acknowledge in orthodox Marxian fashion that political developments were dependent upon economic, but he rejected the inevitability of class warfare. He was deeply concerned with the spirit and dignity of man as well as with his material needs. He thought

of socialism, not simply as a response to certain economic conditions but as the culmination of all that was best in Greek, Jewish, and Christian civilization and in the thought of the Enlightenment. Economic forces were important, but they operated upon human beings who were infinitely diverse and who could not be understood in terms of a single mechanical economic formula. Rejecting the doctrine of a basic conflict of interests which could be resolved only through class warfare, *Jaurès* went so far as to recognize the good faith and idealism which had motivated the bourgeoisie (the bogey of all orthodox Marxists) at certain times; and he went so far as to say that capitalists and workers shared certain interests in common which could be made the basis of a peaceful evolution toward the socialist society.

*Jaurès* was assassinated at the outbreak of World War I in 1914; and in the later years of that great struggle the Socialist movement was seriously divided. Many Socialists (who were called "social patriots" by their enemies) supported the war as a battle for democracy; but an increasingly large minority became disillusioned and turned either to an absolute and extreme pacifism or, more significantly, to the belief (propagated by *Lenin*—see p. 426) that the international war must be turned into a civil war, a class struggle between the bourgeoisie and the proletariat. To this last group, the success of the Bolshevik Revolution in Russia was an inspiration and a source of tremendous prestige. In 1920 the left wing of the Socialists adopted the name of "Communists" and joined the Moscow-led Third International. Most of the leaders of the party, however, remained loyal to the old name and the old program, and in the following years they attracted a greater popular following than did their Communist rivals. This following, however, included not only workers but a large part of the population of the small towns and countryside as well as many members of the white-collar middle class, including a high proportion of government employees. As a result, there were several different "chapels," or what the French often call "tendances," within the Socialist Party: one devoted to radical social change and the interests of the working class, and commonly called the "doctrinaires," one



which was strongly pacifistic, and one which represented the progressive middle classes who desired moderate social reform within the framework of constitutional democracy. Much of the popularity of the party resulted not from its desire for social reform but from its pronounced opposition to war—for France had almost bled to death in the War of 1914-1918, and no people was more deeply pacifistic.

#### CHRISTIAN SOCIALISM

Throughout the nineteenth century there had been some more or less isolated individuals in France who preached a doctrine of Christian Socialism, believing that democracy and social reform should be achieved through the application of Christian principles and with the help of the Catholic Church. So long as Pius IX remained Pope (1846-1878) such movements were frowned upon by the Church; but his successor Leo XIII (1878-1903), while attacking Marxian socialism, urged the passage of social legislation to protect the working class. In France a large number of Catholics, particularly among the younger laity and the lower clergy, gave enthusiastic support to these ideas. Early in the twentieth century the movement known as the *Sillon*, led by Marc Sangnier, a young Catholic who believed devoutly in the Church's social mission, attempted "to place the social forces of Catholicism at the service of democracy." The group was condemned and silenced by the Vatican in 1910, not so much for the content of its social doctrine as for its claim to independence from the authority of the Church; but in the inter-war period the small party known as the Popular Democrats represented a continuation of the doctrine of a democratic and social Catholicism. Its leaders were prominent in the Resistance movement, and under the new name of the *Mouvement Républicain Populaire* the group emerged as one of the strongest parties of post-war France.

#### French Political Ideas in the Inter-War Period

The years immediately before the outbreak of World War II forced a considerable readjustment in the French ideological pattern.

Until this time, the parties of the Right, in the spirit of Barrès and Maurras, had been identified with extreme nationalism, which often took the form of hatred of Germany, skepticism about the desirability or efficacy of international organization, and bitter opposition to social and economic reform. In contrast, the parties of the Left (except for the Communists who continued, with occasional intermissions, to work for international revolution) adopted slogans of peace and reconciliation, disarmament, and peaceful social progress. In 1933, however, an aggressive Hitler came to power in Germany at the very time that the disastrous economic depression had aroused a demand for sweeping social reform in France. A dilemma for both sides resulted: Rightists had to decide whether they hated an aggressive Germany more than they feared social reform at home, and Leftists had to decide whether they loved peace and social progress more than they hated Nazism. The result was a shifting of position and a split in both groups. A few Rightists maintained the position of traditional French nationalism: Germany, whether monarchist, democratic, or Fascist, must be kept powerless. Somewhat more, however, felt that if the choice lay between a victory for Hitler and social revolution in a democratic France, there was something to be said for a French defeat which would destroy democracy, much as the loss of the war of 1870 had destroyed the Second Empire. In this spirit Marshal Weygand used the report of a Communist uprising in Paris as a reason for urging surrender to Germany in the summer of 1940.

Disunity on the Left was just as serious as that on the Right. The majority of Radical Socialists and Socialists reluctantly came to the same conclusion as their leaders Edouard Herriot and Léon Blum, that it was necessary to fight German aggression in order to save French democracy. But many Radical Socialists were leaders in the effort to appease Hitler; and while at least half the Socialists resolutely opposed appeasement, most of their deputies voted for Marshal Pétain, though there were forty among them who refused to swing with the majority. The leaders of the Catholic progressives, the Popular Democrats, stood firmly for democracy and against appeasement. But

the Communists, after being most vocal in the demand for resistance to Hitler, reversed their position in August 1939, when they received word of the Hitler-Stalin pact, and actively opposed French participation in the war. Finally, on the Left, on the Right, and in the Center, there were masses of people who found it impossible, when confronted by a choice of evils, to choose either alternative with enthusiasm or even with firmness. The bewilderment and lack of conviction of the ordinary Frenchman in 1939 and 1940 undoubtedly was one of the important elements in the German triumph.

### **The Resistance**

In its first months the Resistance movement lacked any clear political philosophy. Its leader, General de Gaulle, a devout Catholic, seemed to some to symbolize the militarism, nationalism, and clericalism which, to an earlier generation at least, marked an enemy of the Republic. However, as the Vichy government revealed its anti-Republican and anti-trade-union character, and as outstanding representatives of the Church and of big business collaborated with it, the Resistance movement became increasingly Leftist in composition. Those Catholics who participated in it generally represented the Christian Socialist element in the Church; and in 1941, particularly after the invasion of the Soviet Union, the Communists took a conspicuous part in resistance activities. The program of the National Council of Resistance, which after 1943 combined all the major parties and organizations of the Resistance, called for radical social and economic reform; and when a new Constitution for the Fourth Republic was drawn up and ratified, its preamble, after reaffirming "the rights and freedoms of man and of the citizen consecrated by the Declaration of Rights of 1789," contained a long list of social and economic guarantees:

Everyone has the duty to work and the right to obtain employment. No one may suffer in his work or his employment because of his origin, his opinions or his beliefs.

Everyone may defend his rights and interests by

trade-union action and may join the union of his choice.

The right to strike may be exercised within the framework of the laws that govern it.

Every worker through his delegates may participate in collective bargaining to determine working conditions, as well as in the management of business.

All property and all enterprises that now have or subsequently shall have the character of a national public service or a *de facto* monopoly must become the property of the community.

The nation ensures to the individual and the family the conditions necessary to their development.

It guarantees to all, and notably to the child, the mother and the aged worker, health protection, material security, rest and leisure. Every human being who, because of his age, his physical or mental condition, or because of the economic situation, finds himself unable to work, has the right to obtain from the community the means to lead a decent existence.

The nation proclaims the solidarity and equality of all Frenchmen with regard to the burdens resulting from national disasters.

The nation guarantees equal access of children and adults to education, professional training and culture. The establishment of free, secular, public education on all levels is a duty of the State.

But if the Constitution, in this sense, represented a triumph for the socialist parties, whether Christian, reformist, or Communist, it would be wrong to suggest that traditionalism and conservatism have lost their power. Badly discredited at first by their association with the Vichy government, the conservatives have won new strength, partly as a reaction against growing Communist aggressiveness and partly because of General de Gaulle's availability as a symbol of their cause.

Today, then, as in the past, there is a conflict of ideas. On the extreme Right the bearers of the tradition of order and authority continue to oppose both the principles of socialism and the democratic ideas of 1789. On the extreme Left the Communists, while using the words "freedom" and "democracy," interpret them in such a way as to justify the use of force and the suppression of the rights of political opponents. Between these two extremes can be found every gradation of political view. On the moderate

Right are those who continue to support the Republic and the tradition of liberty but who interpret it primarily in terms of freedom of enterprise and the absence of governmental control over economic life. On the moderate Left are Socialists who, in the tradition of Jaurès, hope to achieve social reform and a planned economy through the use of democratic methods and without violating individual liberty. In be-

tween are those who hope to combine the philosophy of 1789 and a certain amount of freedom of enterprise with a moderate degree of social reform, and those who wish to combine social reform with loyalty to the Church. Each of these ideas today is represented by an organized political movement or party; and to understand their force, it is necessary to look at these organizations in more detail.

## CHAPTER 3

# French Parties and Elections

### I. THE CHARACTER OF THE FRENCH PARTY SYSTEM

The French party system is, in a sense, a challenge to every generalization about political parties which the Englishman or the American is tempted to make. To either it seems natural that there should be two large parties, that one of these should rule and the other oppose, and that every once in a while they should trade positions. The rise of a third party is usually regarded as a disrupting influence, upsetting the entire system. Particularly in Great Britain, government seems possible and comprehensible only when one party is able to take the responsibility of political leadership and when there is a united and forceful opposition prepared to take power whenever the government is defeated.

In France, however, none of these assumptions is either natural or obvious. A two-party system would be totally inadequate to represent the great variety of political interests and principles; and multiplicity of parties makes unlikely the development either of a clear and cohesive majority or of a responsible opposition. Moreover, the bitter opposition between the extremes is so great that neither extreme could accept the rule of the other with the tolerance which marks the alternation of parties in Great Britain and the United States.

To the foreigner the resultant system often seems unintelligible and chaotic, and the French are accused of political fickleness and frivolity with an implication that any solid and sensible people could organize a firm and simple form of government. If anything, however, the French people are not frivolous and

fickle enough. The issues which divide them are fundamental; the party groupings themselves are logical; and the French cling to their principles with such firmness as to render impossible the sort of practical and facile compromise which can unite Northern progressives and Southern conservatives in a single Democratic party.

The tragedy of the French party system, in short, is that its adaptation to inevitable circumstance prevents it from accomplishing simultaneously what seem to Anglo-Americans the most important functions of a party system: the representation of the opinions and desires of the voters and the simultaneous provision of an effective government. A party system which, in France, is truly representative of the country's diverse opinions cannot possibly provide a homogeneous and stable majority party capable of governing the country; a government which is strong and homogeneous cannot represent a majority of the people. Thus, representative government, under the Fourth Republic as under the Third, is coalition government. And a firm and homogeneous coalition is a contradiction in terms.

#### *The Party System of the Fourth Republic*<sup>1</sup>

The party system of the Fourth Republic, like that of the Third, is a multi-party system. Immediately after the elections to the first National Assembly in 1946, however, it appeared that the parties of the Fourth Republic would be fewer, larger, and, in general, better disciplined. Several of the smaller party groupings and most of the independent deputies had dis-

<sup>1</sup> For election statistics and representation of the parties in the National Assembly in 1946 and 1951, see p. 311.

appeared from the National Assembly, and the parties that received the largest vote in the first elections after the liberation accepted a discipline considerably stronger than that of the typical party group of the Third Republic.

The three major party groupings were the Communists, the Socialists, and the M.R.P. (*Mouvement Républicain Populaire*), and there were two of secondary importance, the R.G.R. (*Rassemblement des Gauches Républicaines*, a union of "Republican Leftists" formed about the old Radical Socialist Party), and the conservative P.R.L. (*Parti Républicain de la Liberté*). The Independents were a small and apparently ineffective group. Of these parties, the two largest were the Communists and the M.R.P. for the Socialists, who at the time of the liberation almost equaled them in strength, had by this time dropped back to a position nearer to the P. R. L., while the R.G.R. brought up the rear. When the Communists, Socialists, and M.R.P. united in a governmental coalition they were clearly in a position to provide effective direction in the Assembly.

As the result of the intransigence of the Communists, however, this original coalition based on the three largest parties broke apart in 1947. Thereafter a series of governmental crises brought to the fore small pivotal groups like the U.D.S.R. (see p. 291), encouraged splinter groups, revived the importance of the Rightists parties, and, on occasions, made the votes of the Independents crucial.

No less important for the emerging political pattern was General de Gaulle's organization, the *Rassemblement du Peuple Français* (Rally of the French People—R.P.F.), which, when announced in the spring of 1947, claimed to be above political parties, drawing its members from all political groupings inside the country and endorsing candidates, regardless of political affiliations, who accepted its principles. The hostility of the other major parties, however, inevitably forced the R.P.F. to take on some of the characteristics of a new political party, although one which aimed at the total elimination or absorption of its opponents. Despite, or perhaps because of, the vagueness of its program, it received great popular support in the municipal elections in the fall of 1947, attracting a heavy proportion of the voters who had

previously voted for the M.R.P. It also scored heavily in the election for the Council of the Republic in the fall of 1948, for which the electors were mainly the communal (municipal) councillors elected the year before. These successes were followed by the emergence of the R.P.F. as a full-fledged party; it contested the national election of 1951 with such effect that it became the largest party in the Assembly.

The two largest party groupings produced by the 1951 elections, the Communists and the R.P.F., were both well disciplined on the pattern of those which originally characterized the first Assembly. The great difference, however, was that these parties were the two most antagonistic to each other and, moreover, to the parliamentary party system within which they found themselves. This inevitably threw particular weight on the so-called center parties, among which only the Socialists and M.R.P. are well disciplined. Since any coalition which excludes the Communists and the R.P.F. must draw substantially on the parties lying between the M.R.P. and the R.P.F. all of which have the loose organization characteristic of the parties of the Third Republic, the Assembly is once more the scene of shifting coalitions in which ill-disciplined parties often play a decisive role.

## II. HOW THE PARTIES WORK

With the exception of some significant individual variations, most French parties have a similar pattern of organization. Local organizations in villages, towns, and sections of cities are grouped together in federations for each department.<sup>2</sup> Each party, in addition, holds a national congress whose decisions are binding upon all organs of the party including (in contrast to the British system) its parliamentary delegation. Between meetings of the national congress, a national council or committee meets periodically and makes decisions binding upon all party organs, with the exception, of course, of the national congress. At the top of the party

<sup>2</sup> Departments, although smaller than American states and lacking their autonomy in local affairs, are the major political subdivisions in France.

hierarchy there is an executive (or directing) committee.

The same general pattern of organization, however, is compatible with widely varying degrees of discipline and executive control; it is important, therefore, to look at individual parties in more detail.

## The Communist Party

### POLICY

The Communist Party is quite unlike any other political group in France. This is partly because it is closely allied, or more likely subservient, to Moscow. But it is also because, as a penetrating observer, A. Rossi, himself once a member of the Italian Communist Party, has written, its inner core of members regard the Party as "*a societas perfecta*, with its own values, its own hierarchy, its own structure, and its own mores." In this sense, the Party is "the model-in-miniature of the new society" which it works to bring into existence, a society the more easily recognized because it already exists in the Soviet Union. Obviously, only a relatively small proportion of those who vote Communist, sign its petitions, and even speak at its meetings look on the Communist Party in quite this light. Only the inner core holds this total commitment to the purpose of the Party. But it is this "solid core of trained militants" which provides both the strength and the essential characteristics of the Communist Party. Whatever policies may be adopted as the result of tactics—and the Party has followed highly flexible and varied policies since the liberation of France—there stands behind them the unchanging determination to make tactics subserve the higher purposes of Communism.

Though the ultimate goal of the Communist Party, as an exponent of the revolutionary Leninist school of Marxism, is social revolution, its tactics in France have been exceptionally opportunistic, and on occasions the Party has promoted moderate and constructive policies. Immediately after the liberation the party's leaders were not certain that an attempt at violent revolution would be either necessary or

successful; they hoped to win power by popular election. To accomplish this objective, however, two things were necessary. The Socialist Party would have to accept a program of united action under Communist direction (for the Communist and Socialist parties together received about half of the votes in France); and since France is still a country in which the owners of peasant farms and small businesses have great political importance, the Party would have to win some of the votes of both these classes. Pursuing these objectives with the greatest vigor the Communist Party bombarded the Socialist Party with demands for common action, and drafted programs and policies specially designed to appeal to the farmer and the middle class. In the spring of 1946, for example, its program called for the reconstruction of France and its industry, the modernization of agriculture, the provision of food for the population, the restoration of a sound financial system, the protection of the family, children, and the aged, the rebuilding of the health of the country, the assurance of the future of French children and French culture, the "organization of democracy," and the defense of peace and security. Every one of the major parties in France could have accepted this program with full enthusiasm, and the uninstructed foreigner would have been more likely to attribute it to the conservative P.R.L. than to the Communists.

The methods for achieving these aims were somewhat more controversial, for the Party advocated the nationalization of important sectors of the economy. This demand, however, formed part of the program not only of the National Council of Resistance (p. 266) but of the party's two principal competitors, the M.R.P. and the Socialists. Even here, moreover, the Communists reassured the middle classes and the peasants. They proclaimed their support of free enterprise in the unnationalized sector of the economy, and they promised to defend private property, including savings (an important consideration in a land famous for its thrift) based upon personal labor together with the (somewhat inconsistent) right to inherit such property "against all efforts of big business men to take such property away." In particular, peasant property was to be protected

and propertyless peasants were to be helped to acquire property.

Enemies of the Communist Party charged that these promises would be violated once the Communists had won power. During the months following the liberation, however, the Communists carried out a policy designed to build confidence in their promises. The Communist-controlled unions impressed the middle classes by their vigorous and disciplined efforts to increase production. For a time the Party even opposed wage increases for workers and opposed all strikes. Communist speakers were careful to avoid references to violence and revolution. Following the elections of November 1946, Maurice Thorez, the leader of the Party, assured reporters that the French experience would not duplicate the Russian experience, that power would be won peacefully and democratically, and that the Party contemplated no radical change in existing property and productive relationships. On the contrary, he promised that, once in power, the Party would carry out a democratic program of national reconstruction acceptable to all Republicans and that it would protect medium and small industrial enterprises together with the property of the peasants. In the summer of 1947, at the meeting of the Party Congress, he rebuked "left-wing sectarians" who frightened the middle classes and the peasantry by their overscrupulous adherence to the traditional revolutionary doctrine.

By the fall of 1947, however, there had been a change in the Party's policy. In the preceding spring, when workers in certain factories showed signs of independence and went on strike in an effort to win higher wages, the Communists yielded to and even assumed leadership of the movement. Partly as a result of this shift in policy, those members of the Party who held ministerial posts provoked their own dismissal from the Cabinet in May 1947, and the uneasy collaboration of the three big parties which had prevailed since the liberation was ended.

The decision of the Socialists at this time to support the Cabinet even after the expulsion of the Communists destroyed the last hope that the Communists would be able to win a popular majority by absorbing the other "workers'

party." And as the Soviet government embarked on an all-out effort to defeat the Marshall Plan, the Communist Party of France in September 1947 joined with it in the formation of an international Communist Information Bureau (popularly known as the Cominform) with the aim of co-ordinating the activities of Communist parties in different countries in support of the "political line" of the U.S.S.R. and in opposition to the policies of the United States, Great Britain, and any countries which co-operated with them. The official announcement of the formation of the Cominform carried a violent attack upon Léon Blum, the great leader of the French Socialists, as a "faithful toady of the imperialists" and called for common action "against the Right-Wing Socialists above all in England and France."

As growing hostility toward the Socialists decreased the prospects of a successful electoral coalition, there was a corresponding shift of emphasis in Communist policy toward more direct action: strikes, sabotage, and the possibility of violent seizure of power. Late in 1947 a series of strikes, ostensibly motivated by the economic distress of the workers but inspired in large measure by the political aims of the Communists, tested the efficacy of these weapons; and the success of the government in restoring order, together with the defection of those workers who formed the *C.G.T.—Force Ouvrière*, forced a further shift in party policy.

After 1948 the Party seemed to follow a double line. On the one hand, it returned to its earlier practice of demanding a broad popular front—in this case against the growing power of General de Gaulle—and renewed its appeal to practically every element of French society. In his report to the 1950 Congress, Thorez even appealed to the Catholics: "rather than quarrel to find out whether there is a paradise in heaven, let us unite so that this world shall no longer be like hell. . . ." The April 1949 Party Conference issued a "fraternal appeal" to Socialist workers; in 1950 appeared a special program for the benefit of rural areas; and wide propaganda has been aimed at the middle class. The best known and most successful of its non-electoral activities, however, have been the gigantic peace campaigns run either by the Party or its front organizations.



Through huge rallies, and peace petitions, the Communists have capitalized for their own purposes on the very real fears and deep desires of the French people.

On the other hand, there has been increasing evidence that earlier recommendations to abandon the "illusions of parliamentarism" and to carry on the struggle outside parliament in the factories and in the streets has not been forgotten. Waves of strikes, pitched battles with the police, attempts to prevent by force the transit of war material, and plots to subvert members of the armed forces have provided almost daily headlines for the French press. Communist deputies have been arrested and local officials relieved of duty for instigating or participating in various "incidents" with the police and security forces. Meetings of political opponents repeatedly have been broken up by force, and occasionally it has seemed as though the only motive preventing a general resort to force was the consciousness that such an attempt would not be successful.

Throughout the Fourth Republic, the Communist Party has continued to command the support of from one-quarter to one-third of the voters. Its following has been extraordinarily steady at a time when all the other mass parties were in the midst of movements up or down the scale of electoral popularity (see p. 311). In fact, despite the drop in the number of their seats in the 1951 Assembly as compared with the 1946 one, election statistics show that the Communists continued to command more votes than any other single party in France. Moreover, the strength of the Communists is more evenly distributed than that of any other party: in 1946, only the Communists got at least six per cent of the vote in every area, and at the same time they exceeded 24 per cent of the vote in the greatest number of areas (42 as compared with 28 for the M.R.P.). Though in 1951 the Communist vote declined in 87 out of 103 districts, the percentage of the total vote was not substantially affected. Curiously enough, the Communist Party is dominant in only two of the main industrial areas; but it is also strong in many country districts, primarily those in the south where formerly the old ultra-radical parties like the Montagnards flourished. It is difficult

to tell, of course, how many have supported the party out of conviction and how many have voted for it as a protest against the high cost of living, or in memory of its outstanding Resistance record when it alone seemed to bear no blame for the debacle of June 1940, or, as is the case with the former Montagnards, as a sign of their uncompromising hostility towards the Rightist parties—in this sense following the old French Republican tradition of voting as far to the Left as possible.

Although it has generally received about five million votes in the nation as a whole, even the Party itself does not claim membership of more than six to seven hundred thousand. Rather surprisingly, and contrary to most other Communist Parties, the French Communists have placed great emphasis on the size of the Party, and in 1947 recruiting was pushed to the point that new members were assured that they did not need to believe in the philosophical principles of the Party so long as they accepted Party discipline, carried out the decisions of the Party, and did not engage in propaganda for other philosophical conceptions. On October 20, 1950, however, the Central Committee of the French Communist Party made an open and humiliating confession that it needed more ideological education, that it must improve the quality of its work, and that it must strengthen its organization and efforts. This declaration seems to have heralded a new period of intensified action in which the emphasis is squarely placed on the party militants (the party workers), probably no more than 200,000 in number, if that many. For the Party knows that should there be a resort to violence, the purely electoral support of the Party would be useless to it, and even its fringe membership would probably be relatively unreliable. Under such circumstances the Communist Party could only act through the trained, militant core of its organization.

#### ORGANIZATION OF THE COMMUNIST PARTY

The Communist Party in France is easily the most highly disciplined, not to say authoritarian, of the parties. At its head is a small committee, the Political Bureau, the most important member of which is the party's secretary-general, Maurice Thorez, who, during his

sojourn in the Soviet Union recovering from a stroke suffered on October 10, 1950, was replaced by Jacques Duclos and Auguste Lecoq, his most prominent colleagues. Three other secretaries direct, respectively, the work of propaganda, of Marxist training and indoctrination, and (the most important of the posts) of organization. The leaders of the Party are commonly described as vigorous, self-confident, ruthless, and determined; and this reputation is an asset in detaching voters from the allegedly flabby and uncertain leaders of rival parties.

The Political Bureau is the capstone of a pyramid whose foundations are composed of innumerable cells of ten or twenty members. These cells are grouped in local "sections" which co-ordinate and direct their activity, and the sections are grouped in departmental federations, one for each department in France. The federations send delegates to a *party congress* (supposed to meet biannually) of about one thousand members which elects a *central committee* of seventy. In form, this committee is the party's supreme governing body; but it is too large, and it meets too infrequently, to direct the day-to-day activities of the Party. Effective authority really rests in the Political Bureau and its secretary-general, who holds, among French Communists, much the same position which Stalin holds in the Soviet Union (pp. 479-80). Communist periodicals are ecstatic in praise of the secretary-general, his statements are regarded as the final authority on party policy, and his fiftieth birthday in April 1950 was celebrated throughout France with fulsome adulation. Thus it is almost inconceivable that a member of the Party could publicly oppose a policy or decision of Thorez and his colleagues without convicting himself automatically of dissidence and treason. In conformity with the doctrine of "democratic centralism" (see p. 474), which encourages self-criticism but permits no review of a policy once officially adopted, the rank and file of the members do not challenge the policy of the leaders; their function, instead, is to act as fighting organizations, carrying out with energy and enthusiasm the instructions they receive—not to discuss, or question, but to expound and act. Meetings of other political parties, it is reported, are filled with accounts of

disputes and of votes taken on controversial issues. The Communist Party's congresses, in contrast, are a model of harmonious and enthusiastic acceptance of the pronouncements of the leaders, although at times there are rumors of acute disagreements within the Political Bureau itself. Despite the example of Tito, however, there have been no open breaks in the top echelons of the Party; those who have been expelled or have withdrawn are either long-time dissidents (like the union leader who subsequently organized the French Communist Independent Movement) or persons unwilling to accept the absolute dedication to the Party service that is demanded of its responsible figures.

#### THE COMMUNIST PARTY AND PARLIAMENT

A particularly important and distinctive feature of the Communist Party organization is the power of the Political Bureau to give binding instructions to the Communists who sit in the National Assembly and the Council of the Republic. In Great Britain not even a party congress, in either the Labor or the Conservative Parties, can do more than issue recommendations calling upon the party's members in Parliament to take certain kinds of action (p. 51). It would be all the more unheard of for the executive committee of a party to issue a parliamentary mandate. But French newspapers regularly carry items to the effect that "the Political Bureau of the Communist Party met and gave a mandate to its parliamentary group" to vote in a certain way or to pursue a certain policy. Thus the members of the Communist Party in the French parliament are controlled not by the voters who elected them or by the local organizations of their Party but by the small group of men who head the party organization, only a certain number of whom are also in the Assembly.

That the Communist deputies in the Assembly are looked upon as instruments in the general Communist offensive has been demonstrated by the frequency with which they have been used, particularly since 1947, to disrupt the business of the National Assembly. Through various parliamentary maneuvers, Communist deputies have been able to delay, sometimes indefinitely, the discussion of bills

to which they were opposed; if this does not succeed, they may resort to disturbances which prevent the conduct of business, or the whole parliamentary delegation may walk out of the chamber. These tactics have sometimes succeeded in endangering the precarious balance within a Cabinet or in precipitating a serious governmental crisis.

#### STRENGTH AND WEAKNESS OF THE COMMUNIST PARTY

The most vulnerable point in the Communist armor, particularly since the formation of the Cominform and the campaign against the Marshall Plan, is the charge that the Party is dominated by Moscow and that it puts the interests of the Soviet Union before those of France. This charge received reinforcement from the Thorez declaration of February 1949 that French Communists would not oppose a Red Army invasion of France. In answering their critics, however, the Communists are very clever. In the first place, the Party is always loud in its protestations of French patriotism, claiming the major share of the credit for France's liberation and portraying itself as the defender of French independence against American imperialism. Beyond this, it insists (and many French people find it hard to disagree) that the future of France is inextricably linked with that of the Soviet Union, so that opposition to that country works against France's best interests.

The great asset of the Party has been its energy, power, and self-confidence. To people who are bewildered and tired, who are weary of talk and who want action, it offers leadership and strength. Its very ruthlessness appears attractive in comparison with the wavering and indecision of other parties. Particularly to young men and women who are eager for change, who see the Socialist Party divided against itself and led by older men, who identify the Radical Socialists with the corruption of the Third Republic, and who suspect the "clericalism" of the M.R.P., the Communist Party exerts a powerful fascination. It is the party of youth, of action, and of force; it is dynamic, aggressive, disciplined. It knows what it wants and how to get it. There is no question to which it does not have a clear and simple answer. And at a

time when any kind of action and order seem better than none, the Party has profited heavily.

No one expects that the Communists will come to power in France in the foreseeable future, either through the ballot or through a coup d'état. But what is profoundly disturbing is they are able to command the allegiance, or at least the votes, of so many Frenchmen. Thus if they cannot put into effect a positive program of their own, they can at least paralyze the efforts of others. In this sense the Communist Party offers a profound and continuing danger to the French state.

#### *The Socialist Party*

##### POLICY

The tragedy of the Socialist Party in France is that it has never been able to command the enduring allegiance of that kind of working-class organization which forms in Great Britain the bulwark of the Labor Party. Immediately before World War II the Socialist Party (which is often designated by the initials S.F.I.O.—*Section Française de l'Internationale Ouvrière*, or French Section of the Workers' International) was the largest of French parties; it held high hopes during the Resistance that it would become the strongest force in the revived French state, just as Labor became in Great Britain in the immediate postwar period, and with much the same kind of program. The first manifesto of the Socialist Party announced a reorganization to make it a "great republican, democratic, and revolutionary force in the nation." Yet French Socialists have not been able to overcome the handicap of having a more dynamic group to their left, the Communist Party. Moreover, the almost constant association of the S.F.I.O. with successive governments of the Fourth Republic, far from being an ultimate source of strength, has not only tended further to compromise its position with the workers but also to bring it an undue share of criticism for everything unfortunate which has happened since liberation.

Even before war broke out, the prewar crisis had weakened and divided the Socialist Party. With the outbreak of hostilities, followed by the debacle of June 1940, and the establishment

of the Vichy regime, the Socialists split badly in their attitudes towards these crucial issues. Some of its leaders, like Léon Blum and Vincent Auriol, never swerved in their loyalty to France and to the Republic: they supported the war against the Nazis, and they voted against the grant of powers to Pétain. Others, regarding peace as the highest value, opposed the war and, in many cases, accepted or even collaborated with the Vichy regime. During the period of the occupation and the Vichy government, therefore, the first task of the party was to regroup itself and to purify itself of all collaborationist elements—a task which it carried out promptly and thoroughly.

In postwar, as in prewar France, the Socialist Party has been handicapped by the incongruity of its position and following. In theory, it is a Marxist party, and as such it wants to be the representative of the working class. But except in the northern regions, the industrial and mining departments of Nord and Pas-de-Calais, the S.F.I.O. has never satisfied the deeply felt class consciousness of the French workers on which the Communists have capitalized so successfully. Fundamentally French workers mistrust the bourgeoisie, and increasingly not only the followers of the S.F.I.O. are bourgeois (in particular, teachers, professional and other white-collar workers, and lower grade civil servants) but also its leadership. The British Labor Party has been able to draw strength from its combination of working-class and middle-class support; the French Socialist Party tends to fall between the two, not wholly trusted by either.

Characteristic of the Socialist Party is its divisions into "tendances" (p. 275) or, as is sometimes said, into little "chapels" beside the big church, Communism. The two chief "tendances" are the doctrinaires, who press the Party to adopt a more radical attitude, to return to the purity of Socialist doctrine, and to refuse to co-operate with middle-class parties, and the humanitarians, who emphasize human values and the importance of political and spiritual liberty and are ready to work with those who similarly prize them. There are also special groups in the Party like the pacifists and trade unionists (now of the white-collar rather than working-class type). Every meeting of the

Party witnesses a struggle among these factions; the greatest weakness of the Party in the post-war years has been its inability to work out a clear and forceful program which could command the enthusiastic support of all its sections. All groups in the Party are agreed that they do not want to join the Communists; even the most doctrinaire dislike the authoritarian organization of that party, the pretense to infallibility on the part of its leadership, and the close association with Moscow. And while the doctrinaire, Leftist, faction has been loud in its appeals for "ultimate" unity with the Communists, these appeals have been largely for the record, for it is obvious that "unity" with the Communists would mean absorption by them. What the S.F.I.O. has tried to do in its apparently wavering policy, however, has been to avoid giving the impression of being anti-Communist—this is the particular aim of the doctrinaires—and at the same time to aid the stabilization of the Fourth Republic, which to the humanitarians has offered the greatest hope of working for liberty and the rights of man.

In the years following World War II, the more radical wing held greater power within the party organization, while the humanitarian wing (which follows the tradition of Jean Jaurès—see p. 275), under the leadership of the Party's greatest statesman, the late Léon Blum, apparently had the support of the majority of the electors who voted the Socialist ticket without joining the Party. As a result, every movement of the Party organization to the Left lost the Party the support of many middle-class voters from both rural and urban areas who turned for the most part to the Radicals or the R.P.F. To the extreme left wing of the Party such defections seemed good riddance; but the fear of losing additional votes, together with the great ability of the leaders of the minority, kept the Party as a whole from thoroughgoing adoption of the radical position. The result was a balancing between the two wings, reflected in a struggle at every party meeting and an inability to take a clear and forceful stand on the most important issues of the day. Inevitably the spectacle of indecision alienated many voters, who could not be sure exactly what they were voting for when they voted the Socialist ticket. Those who feared Communism more

than anything else tended to vote for parties of the Right which were more forceful in their rejection of any co-operation with Communists; some of those who desired an aggressive working-class movement turned to the Communists as the most vigorous fighters for the "rights of the workers," though it is noticeable that the Communists did not gain in 1951 in the areas where the Socialists lost. As the Party lost electoral support, particularly to the right, its own active membership also declined sharply. Thus, from December 1946 to June 1947, the number of members fell from 354,000 to 300,000, and by December 1949 was as low as 156,000.

The great fear of French Socialists today is that, like the Liberal Party in Great Britain, they will be destroyed by this pull of opposite extremes. This danger is the greater because the Socialist Party, through its loss of influence in the powerful trade unions (the *Force Ouvrière*, with which it has cordial relations, has very limited working-class strength), has no longer much significance apart from its role in parliament. Though the French political system permits small parties to exert considerable authority, particularly if they hold the balance of power, there is a danger that the Socialists will fall into the same kind of opportunism which ruined the Radicals in the late years of the Third Republic. In the latter years of the first Assembly the Socialists were already compromised to a considerable extent by their participation in Ministries drawn increasingly from the center and right. But whether they participate or not, their support of the constitutional system forces them to give at least tacit support to governmental coalitions. At the same time, the outworn, but no less fanatically maintained, anticlericalism of its militants prevents the wholehearted co-operation with the M.R.P. which their joint interest in social and economic welfare suggests. Until they can offer the working class a satisfactory alternative to Communism, the Socialists are likely to decrease in influence as a Party, although they may still have influence through outstanding individuals, like Jules Moch or Vincent Auriol.

#### ORGANIZATION OF THE SOCIALIST PARTY

In form, the Socialist organization is not too different from the Communist; in action, it

could hardly provide a greater contrast. Its leaders can never be sure of the support of the party as a whole, and every level of party organization, from local units to the *comité directeur* (executive committee) at the top, is marked by discussion and disagreement.

The local organizations of the party are grouped in departmental federations. Their representatives meet annually in a *national congress* of about eight hundred which is the party's chief governing body. In the intervals between its meetings, the highest party organ is a *national council*, composed of one delegate from each departmental federation, which meets every three months and which can be summoned to special meetings when it is essential to make immediate decisions about party policy. The national congress and the national council (unlike party conferences in Great Britain) can issue binding instructions to the Socialist members of parliament, although only the national congress has the power to make basic changes in party policy.

The relations of the *comité directeur* and the parliamentary group have been more difficult to settle. Until 1947 the *comité directeur*, unlike the Communist Political Bureau, had no authority to issue binding instructions to the parliamentary group. At the party congress of August 1947, however, party secretary Guy Mollet complained that the parliamentary group and members of the Ministry had not carried out the instructions of the 1946 party congress and demanded that the *comité directeur* be given power to enforce these instructions. The congress accordingly proclaimed the *comité directeur* as the "only repository of the party's will" between meetings of the congress and council and ordered it to watch over the carrying out of the party's program even at the price of a ministerial crisis. Even this declaration, however, did not establish the complete authority of the *comité directeur* over Socialist members of parliament and the Ministry. Rather, it was understood that the *comité directeur* might determine the general line of the party, but that the parliamentary group would decide how to apply this policy in individual instances, a solution which left open the possibility of future disagreement over the definition of these terms. In December 1949 a subsequent, more satisfac-

tory arrangement was made by an extraordinary congress of the Party which established a special Committee of 46, including the *comité directeur* (which consists of twenty-one militants and ten parliamentarians) and fifteen members of parliament (nine deputies and six senators selected by the Socialist groups in the two chambers). Thus the parliamentarians had a majority of four over the party militants. The Committee of 46, whose mandate must be renewed every year, is authorized to make final party decisions on such questions as the attitude taken on a vote of confidence. On the important issue of whether the Socialists should participate in a Ministry, the Committee of 46 may call a meeting of the National Council if this seems advisable, but it was the Committee itself which called the Socialist ministers out of the Bidault government in February 1950.

The organization of the Socialist Party is basically democratic in the sense that rank and file members can criticize the party's leaders and remove them from office. In the National Congress of 1946, for example, the policy of the party's leaders was rejected, and it was then that the position of party secretary was given to the leader of the dissident wing, Guy Mollet, while seventeen of the thirty-one seats on the *comité directeur* were acquired by his supporters. In 1951 the National Congress refused to give one of its cabinet ministers, Jules Moch (whose strong handling of strikes had alienated the working class), another term on the *comité directeur*. Other members, however, can always campaign for a reversal of such policies. Both the repudiation of the leaders and the continued activity of the minority would be impossible, of course, in the Communist Party.

There is some question, however, of how representative the rank and file of party workers, or "militants," are of the voters who support the Socialist Party in elections. One frequently reads of meetings of departmental federations, attended perhaps by fifty or sixty members, who decide how that department's representatives shall vote in the national council or congress. Yet in such a department several thousand people may have voted the party ticket in the last election. As with the Labor Party in Great Britain (p. 47), those who do

the work of the Party are likely to be the more ardent and by this fact unrepresentative of those who have elected the Party's representatives in parliament. Though, of course, no party can pursue policies disliked by the bulk of its militants, the intransigence of the Socialist Party militants on issues like anticlericalism may have helped to weaken the Party's electoral position. The relative independence of the Party's local organizations has also been a source of weakness since they are less likely than Communist or M.R.P. organizations to nominate as candidates those men whom the national leaders would like to see in Parliament. In several instances, local federations have preferred to nominate what Americans would call "favorite sons"—local worthies of not particularly distinguished ability—in preference to men of little popular appeal who would be extremely valuable as members of parliament. A further sign of the independence of local federations was their freedom to contract alliances in the 1951 electoral campaign, with only the slight restriction that coalition lists had to be submitted to the *comité directeur* for ratification.

### The "Mouvement Républicain Populaire"

#### POLICY

The *Mouvement Républicain Populaire* (Popular Republican Movement), the successor of the Popular Democratic Party, emerged from the war as one of the two largest parties in France, thereby constituting a double phenomenon: it was the first time that there had appeared a large and well-organized party capable of balancing the great parties which traditionally constituted the French "Left," and it was the first time that a large party had been able to combine friendliness to the Catholic Church with a democratic and semisocialist policy.

The leaders of the M.R.P.—Georges Bidault, André Colin, Maurice Schumann, and Robert Schuman—had taken an active part in the Resistance movement, had an excellent record of opposition to Fascism both at home and abroad, and were genuinely devoted to social and economic reform. They had joined with Socialists and Communists in drawing up the program



of the National Council of Resistance (p. 266) and they insisted that the M.R.P. was itself a Leftist party. Yet they also profited from the prestige of General de Gaulle who, although conservative, was believed to favor them.

If the position of the leaders of the Party was perfectly clear, however, there was considerable doubt about the nature of their following. Particularly in the first elections after the liberation, the Party received a tremendous popular vote, and it was suspected that much of this vote resulted not from desire for social reform, but from fear of Communism or admiration for De Gaulle. Leaders of the Catholic Church were glad to identify themselves with a party whose opposition to Vichy could not be challenged. During the 1946 elections, members of the Catholic hierarchy urged good Catholics not to scatter their votes but to unite behind the party which was in the best position to promote the principles for which the Church stood—and this was generally understood to be an invitation to vote for the M.R.P. Under such urging, there seems little doubt that many voted for the M.R.P. who could have had little sympathy with its social and economic program, and it was frequently charged that most of the M.R.P. voters could not be counted upon to support the party's leaders through thick and thin. Thus it was pointed out that in the department of Vaucluse the M.R.P. received 26,000 votes at a time when it had only 100 enrolled members; presumably only the enrolled members were definitely committed to the Party. As a result there was no way of telling how many voters genuinely endorsed the program of the Party.

In principle the M.R.P. rejects both "liberal capitalism" and "totalitarian collectivism." Its great difference from the Marxist parties (and on this point it is not far removed from the humanistic wing of the Socialists) is its objection to a materialist philosophy and its insistence upon the personal dignity and liberty of man. Like the Socialists it believes that the fullest development of the human personality depends upon proper economic and social conditions, and it therefore supports a far-reaching program of reform. Like parties further to the Right, and in opposition to the Socialists, it desires state financial support for the church

schools. Such a program, it was hoped, would make possible the growth of a great stable party, capable of withstanding extremists of both the Left and the Right and of leading France on the path of peaceful, democratic reform.

Critics of the M.R.P. insisted that such a goal was utterly unrealistic and that the mass of the voters would desert the M.R.P. whenever it was challenged by an effective conservative party, and such predictions appeared to receive some confirmation when, in the municipal elections of 1947, the Gaullist R.P.F. won about 40 per cent of the popular vote, while the M.R.P.'s percentage fell from 26 per cent to 10 per cent. The 1951 elections proved conclusively that De Gaulle's R.P.F. drew a very considerable proportion of its electoral strength from those formerly supporting the M.R.P.

To the disappointment of its enemies, however, the M.R.P. has not collapsed; on the contrary, it has remained a major political force, and one of the most hopeful elements for the vitality of French democracy. The presence of the Rightist R.P.F., which has attached to itself the more conservative and nationalistic among the clergy as well as the laity, has acted, in fact, as a kind of "lightning rod" drawing away from the M.R.P. those elements most likely to stamp it as Church-dominated; but at the same time the existence of the R.P.F. with its authoritarian bias makes more difficult the position of any party with a religious association. Even without this, the M.R.P., of course, always suffers the suspicion attaching to any Catholic party, however advanced its program. The fact that the M.R.P. is a mass party provides both strengths and weaknesses: the party has considerable influence in the working class, partly through the C.F.T.C. (see p. 244), but it has become increasingly a middle-class party, with all the difficulties which that produces for worker participation. But though between 1946 and 1951 the M.R.P. suffered a loss of about one-half of its original electoral support, it may well retain the levels achieved in the latter year. Unlike the Socialist Party, it not only has many young people among its members but also includes distinguished intellectuals. It shares with the Communists the ability to enroll women among its



workers. Moreover, its leadership, though relatively inexperienced, is sincere, distinguished, and quite untouched by blame for the debacle of 1940.

In a very real sense, the M.R.P. has been the mainstay of the Fourth Republic. It has participated in every Cabinet since liberation, except for the all-Socialist Ministry under Léon Blum; in Robert Schuman and Georges Bidault it has provided Premiers for several Cabinets. The Party has had a virtual monopoly of the Ministry of Foreign Affairs, and has the Schuman Plan to its credit. Moreover, it has never overthrown a Ministry by withdrawal; it has come close to causing crises only at the time of the rift over the school question in the first Schuman Ministry and the impasse over electoral reform which brought on the resignation of the Plevin Cabinet. In the future, the Party expects, in the words of Bidault, to continue to serve as "the axis of the majority."

#### ORGANIZATION OF THE M.R.P.

The M.R.P., better than any other French party, seems to have handled the problem of combining democratic organization with party discipline. This is partly because its local organizations, unlike the Communist cells, enter actively into the preparation of party policy, collecting information about local social, economic, and political conditions in order that the central party organization may suit its programs to current needs. Nor do the larger federations dominate to the degree of those in the Socialist Party since representation in the congress is calculated on a sliding scale, not by strict rule of proportion. Further, committees prepare careful reports to serve as a basis for the congress's discussions of policy and, to a very large degree, the Party acts as a disciplined unit in carrying out the program agreed upon.

The discipline which characterizes the Party results from the deliberate intention of its founders to build a centralized organization in which local units would loyally carry out national policy. Special training centers were set up for party workers and, in contrast to other non-Communist parties, special efforts were made to develop colorful and effective propaganda techniques. Discipline has also been en-

forced in the Assembly; for instance, a deputy was expelled in February 1950 for his attitude on votes of confidence, and this was not an isolated case.

The M.R.P. has departmental federations, an annual national congress, and a national committee, one-third of whose members are drawn from the party groups in the National Assembly and the Council of the Republic, and which also includes any M.R.P. Cabinet ministers and delegates of the federations and specialized groups, to a total of 187. The M.R.P. *executive committee* of forty-five is composed of members of parliament and leaders of the organization chosen by the national committee.

Although it appeals to Protestants, Jews, and free-thinkers, as well as Catholics, the M.R.P. has drawn special strength from its association with the C.F.T.C., which affords it a supply of militants around which it can organize, and also from Catholic youth organizations which share the same progressive social and economic sympathies: the *Jeunesse ouvrière chrétienne* (the organization of young Catholic workers popularly known as J.O.C.) and the *Jeunesse agricole chrétienne* (young Catholic agricultural workers—J.A.C.).

#### The Radical Socialists and the R.G.R.

From the beginning of the twentieth century until the election of 1936 the Radical Socialist Party was, more than any other, identified with the Third Republic. It was the representative *par excellence* of the lower middle classes which held the greatest power—small shopkeepers, farmers, less successful professional men, and in general those who were suspicious of big men and big ideas and who were devoted to republican principles and the heritage of the French Revolution. Inevitably, therefore, it suffered from the reputation of the Third Republic for inefficiency and corruption; and although its outstanding leader, Edouard Herriot, had a stainless record of opposition both to Nazism and to Vichy, the party as a whole was discredited. Loss of much of its press added to its weakness. In consequence, during the early years of the Fourth Republic, the Radical Socialists appeared in parliament only as a minor group, the center of a loose alliance known as

the *Rassemblement des Gauches Republicanes* (Rally of Republicans of the Left—R.G.R.) which hoped to hold the balance of power between more powerful groups but seemed to have little hope of becoming a leading party itself.

The re-emergence of the Radical Socialists into an important, though not dominating, role in the Fourth Republic has been almost as striking as the decline of the Socialists. In point of fact, however, the electoral support the Radicals received in 1946, and their number of seats in the Assembly, was hardly a fair indication of the Party's actual status in the country. In twenty departments, for example, the Radical Socialists did not even offer lists in the 1946 election. By the time of the elections for the Council of the Republic in 1948, the Party had made great strides, and the R.G.R. won more seats than any other party: 66 seats as compared with 57 for De Gaulle's R.P.F. and 50 for the Socialists. Within the Assembly, the Radical Socialists became less reluctant to use their old title and to stand on their own apart from the R.G.R. As the balance of power shifted to the right with the ousting of the Communists in the spring of 1947, the votes of the Radical Socialists became more significant, and before long, one of their top figures, Henri Queuille, formed a Ministry, destined to be the only one in the course of the first Assembly which lasted longer than a year. That their position in the parliamentary scene was once more secure was shown by their increased representation in the second Assembly, though their support in the country changed little.

Always a loosely united party, the Radical Socialists have had problems in their relations both to the R.P.F. and the R.G.R. While united on principles of economic liberalism, the Radicals split on whether to co-operate with De Gaulle, as a minority under Edouard Daladier desired, or to work with the Third Force (see p. 296), as its champion, Edouard Herriot, wished. Despite charges of "political bigamy," Herriot was unable to enforce party discipline on this point, and not until March 1951 was the question of whether there could be dual allegiance to the Radicals and to the R.P.F. settled in the negative. Even so, the elections of 1951 proved that the R.P.F. could take votes away from

the Radical Socialists, and the latter only made up for these losses through winning back supporters from prewar days who had voted Socialist in 1946.

Relations with the R.G.R. have not been so stormy nor yet so conclusively settled. The R.G.R. is essentially an electoral alliance of small parliamentary groups which does not necessarily involve joint action within the Assembly. The most important member of the alliance apart from the Radical Socialists is the U.D.S.R. (*Union Démocratique et Socialiste de la Résistance*—the Democratic and Socialist Resistance Union), a resistance organization which originally allied itself with the Socialists but gradually moved towards the Right. Many of its members became partisans of General de Gaulle, but in 1949 its R.P.F. wing, which had already seceded, was declared expelled. Though it commanded less than twenty votes in the Assembly, the U.D.S.R. provided one of the Fourth Republic's most successful premiers, René Plevin.

The U.D.S.R. and the Radical Socialists have both had reservations about belonging to the R.G.R., fearing it might threaten their independence, and having some mutual doubts about their associates. The section of the Radicals which most strongly favors the R.G.R. is led by Daladier and has the more strongly Rightist-orientation, as opposed to that which is led by Herriot and favors working with the government majority. Many Radical Socialists, in fact, ran on separate tickets in June 1951 against an R.G.R. slate, particularly where the R.G.R. was allied to the Fourth Force (see p. 292). While the new Assembly was being organized, Daladier even held out for the constitution of a formal R.G.R. group, but finally gave in and enrolled, as formerly, with the Radicals. Thus the R.G.R. remains on an inter-group basis, but its relations with the Radical Socialists are not yet finally settled.

During the debates on the Constitution, the Radical Socialists made themselves spokesmen for the traditional freedoms of speech and press, and for the retention of a strong upper chamber. Since the adoption of the Constitution, it has been in the forefront of those demanding revision; in particular, so to increase the powers of the Council of the Republic as to match those

formerly possessed by the Senate. The Party still calls itself a party of the Left (in accordance with the electoral advantage of such a name), but in practice its policies for decades have been becoming increasingly conservative. It is opposed to any widespread program of nationalization of the country's economy, and for this reason has clashed on occasions with the Socialists. The Socialists and Radicals have anticlericalism in common, however, and for this reason, the Socialists have generally found it easier to work with the Radicals than with the M.R.P.; moreover, since the Radicals are less intransigent on anticlericalism than the Socialists, they find it not too difficult to work with the M.R.P. (Both instances represent one of the paradoxes of French politics which are so confusing to the foreigner, for the Socialists and M.R.P. are, of course, very much closer to each other in their economic and social aims than either is to the Radicals.) The Radical Socialists have made special efforts to restore voting by *arrondissement*, the smallest unit possible, which was used during much of the Third Republic and is far better suited to the local tactics and intrigues at which the Radicals have long been masters than is the much larger departmental unit.

#### ORGANIZATION OF THE RADICAL SOCIALISTS

Like other parties, the Radical Socialists have their departmental federations and national congress. The Party is highly decentralized, with the federations enjoying a great deal of autonomy. An executive committee meets in the intervals between congresses, and a smaller executive commission corresponds to the Socialist *comité directeur*. A special group, the *Comité Cadillac*, including members of the executive committee and of the parliamentary group, determines such broad issues as participation in a Ministry. In general, however, the Radicals maintain the independence and freedom from discipline of the Third Republic. Party meetings are marked by debate and disagreement and even by the secession or expulsion of dissident groups. Moreover, in the Assembly the Party's members seem but rarely to vote as a unit; it is not unusual, in fact, for half the Radical Socialists to vote in opposition to a policy advanced by a Ministry in which

their Party has important responsibilities, or even the post of Premier.

When one adds to this lack of discipline the fact that the Radical Socialist Party is only one member of a very loose coalition, each of whose members retains full autonomy to act as it pleases, the contrast to the highly disciplined organization and effectiveness of the Communists is particularly striking.

#### The Conservatives

To the right of the R.G.R. are several rather ill-defined parties which may be grouped together broadly as the Conservatives. They included in the first Assembly the Independents, the *Parti Paysan* (the Peasant and Social Action Party), and the *Parti Républicain de la Liberté* (Republic Party of Liberty, commonly known as the P.R.L.), of which the last was the strongest.

These three parties united in May 1951 into an electoral alliance which they termed the "Fourth Force." Since they were successful in working out a common program at that time, they decided to constitute a "parliamentary union" in the second Assembly, an arrangement implying greater unity of action than that afforded by the transitory "inter-group." Characteristically, however, this "parliamentary union" soon split into two groups, thereby virtually ending this rather halfhearted effort of the Conservative parties to establish effective unity and national organization.

As in the past, there is a general confusion among the Conservative groups which makes it virtually impossible to establish, let alone maintain, their cohesion. In general, they stand for the traditional institutions of the family and the Church, urge support for the church schools, favor the monetary policies which big business endorses, and oppose nationalization and economic *dirigisme* (economic planning). Their foreign policy aims rather vaguely at support of the French Union and a strong position abroad. Despite, or perhaps partly because of, their lack of precise program the Conservatives have attracted a fair measure of support, particularly as the more prosperous classes have become increasingly alarmed about the electoral strength of the Communists.

Curbing further growth, however, is the ambiguous position of the Conservatives in regard to De Gaulle. Some of the Gaullist elements among the Conservatives have already made their way into the R.P.F., but a sizeable contingent of Gaullists still remains in each of the Conservative parties. While the so-called "Fourth Force" finds its most congenial allies among the conservative elements of the R.G.R., which joined in electoral arrangements with it in many areas in 1951, Paul Reynaud, leader of the Independent Republicans, has indicated his willingness also to work with the R.P.F., stating that all non-Communist parties should be able to co-operate on a common program.

This ambiguity of the Conservatives in relation to De Gaulle raises problems not only for their own groups, within which the deputies act very independently, but also for the governmental coalitions in the Assembly. Although the programs and attitudes of the Conservatives particularly in economic affairs have little appeal to the parties of the Third Force, it will be difficult in the second Assembly to establish Cabinets without them. In fact, the Conservatives already participated in Cabinets during the first Assembly and there were Independents in every Ministry after 1947 except one. Insofar as the Conservatives gain important governmental posts during the second Assembly, it seems likely that their presence will handicap the effectiveness of Ministries in meeting France's economic and social needs, and thus the challenge of Communism on one hand and Gaullism on the other.

### *The "Rassemblement du Peuple Français"*

The most striking and problematical political party in France is that led by General Charles de Gaulle, the *Rassemblement du Peuple Français* (Rally of the French People, commonly known as the R.P.F.), which he insisted at its formation in the spring of 1947 was not a political party at all but aimed at the union of all French people regardless of party. By the elections of 1951, however, the R.P.F. had clearly taken the form of a political party, well organized with severe and centrally controlled discipline, and a far-reaching, if somewhat vaguely worded, program involving vast po-

litical and economic changes. Yet there is a sense in which De Gaulle's original characterization still remains true, for the R.P.F., unlike other French parties, is not eager to share in governmental coalitions, the offspring of the "regime of parties" which its leader has so frequently denounced. Dedicated to its particular mission of fundamental change, the R.P.F. is a force in French politics whose ultimate influence can scarcely be foreseen.

### POLICY

There are many reasons for the phenomenal popularity of the R.P.F. which, though only six months old, garnered almost forty per cent of the votes in the municipal election of October 1947 and gained the largest number of seats (though not so high a percentage of votes as the Communists) in the national elections of 1951. One positive reason is the personal *mystique* (a characteristically French word involving much more than popularity) of De Gaulle; a negative reason is the general disillusionment with the functioning of French politics. For instance, former Pétainists, and the floating vote of the M.R.P., probably still form the core of the R.P.F., but it draws from every stratum of society, including the working class (it has numerous cells in trade unions). Its following is predominantly urban, and in many sections draws heavily from the lower middle class which is so unsure of its prospects and somewhat neglected by other parties.

To understand the R.P.F., the fervor it commands from many of its followers, and the fear it awakens in its opponents, it is necessary to know about its leader, De Gaulle, who has stamped this party as no single individual has ever stamped any other French party. A professional soldier and the rallier of the Free French, De Gaulle's *mystique* developed as a result of his identification with the Resistance. De Gaulle is aloof, sincere, and austere, a devout Catholic, and a devoted family man. Equally, he is ambitious, haughty, and with a profound sense of his rightness and of his own destiny. He has a gift for appealing to French crowds, but through sincerity, logic, and wit tinged with sarcasm, rather than through emotionalism. No one denies his devotion to France; how far it

is intermingled with his own ambition is more difficult to say.

The program of the R.P.F. has been outlined mainly in De Gaulle's many speeches and in the writings of his supporters like André Malraux, a distinguished novelist, who is one of the few intellectuals in his group. The basic motivation of the program is the twin dangers of the Soviet Union and the French Communist Party, which De Gaulle believes necessitate far stronger foreign and military policies than France has attempted since World War II. Since he considers with justification that the existing political system is incapable of instituting such policies, De Gaulle demands a fundamental change in the institutional structure of the Republic to replace the shifting succession of governments responsive to the will of an omnipotent Assembly by a strong executive whose power can be reinforced by direct appeals to the people.

The political system envisaged by De Gaulle, in fact, seems a somewhat confused blend of the American presidential-congressional system and the British parliamentary system. There is to be a strong President, elected not by direct vote (to avoid the Bonapartist parallel), but by a national body, one-third of whose membership would be parliamentary and the rest representative of local assemblies, and intellectual and economic associations; an Assembly elected by the straight majority system with double vote, as in the Third Republic; a second chamber, almost co-equal in power to the Assembly, and selected partly on the basis of corporate representation; a strict separation of executive and legislative functions; and a federal constitution for the Empire within which France would have the dominant role. The President would not only have the right to name the Premier and his ministers and to dismiss them, but also to dissolve the Assembly in case of a motion of censure, or to appeal to the electorate through a referendum in case of serious disagreement between the executive and the legislature over a legislative proposal. Thus the President becomes both the director of the executive in a constitutional system supposedly characterized by the separation of powers and the arbiter between the executive and legislature in case of conflict, with the right of ultimate recourse to

the people through a direct vote. The President could also negotiate and ratify treaties which would be brought to the attention of the chambers when national security so permitted. The official explanation of the President's position places particular stress on the responsibilities for foreign affairs, integrity of the national territory, and so forth, and it is clear that De Gaulle's implacable opposition to communism and to "fellow travelers" and his insistence on the need for effective foreign and military programs underlie the whole plan. Nonetheless, the constitutional proposal clearly presages a rather ominous centralization of power.

The social program of the R.P.F. is slightly corporative in flavor, drawing on the conceptions of papal encyclicals like the *Rerum Novarum* (the M.R.P., while it also maintains that its social ideas stem from these conceptions, avoids direct reference to such documents because of their conservative slant). De Gaulle's notion of "association" of capital and labor was defined in a speech on January 4, 1948, as meaning that "in any given group of enterprises, all those who are part of it, the leaders and the workers' representatives, would, under a system of organized arbitration, fix together, as equals, all working conditions, especially wages." On close examination, however, "association" seems to mean only a vague and not very generous profit-sharing scheme. This would be obligatory for nationalized enterprises; for others, optional for an initial period. Early ideas of incorporating the representatives of labor and industry into the machinery of government were dropped when they were termed "fascist." Almost the only Gaullist idea in the field of labor which has had much general support, in fact, has been the proposal to abolish political control of labor unions, e.g., of the Communists in the C.G.T.

Though De Gaulle sharply attacked the governmental parties in 1947 and thereafter, calling them "usurpers" when they refused to call new elections after the R.P.F. displayed such strength in the municipal and Council of the Republic elections, he has launched his sharpest attacks, naturally, upon the Communists, whom he terms "separatists," to stress their connection with Moscow. And while the R.P.F. was not supposed to enter election alliances in 1951,

the party embodies the notion that all Frenchmen, except for the Communists, can be united behind a single program. Thus the proposal for "association" of capital and labor could be interpreted as a middle ground between proponents of radical economic and social reform, and the supporters of "free enterprise." A further point in the R.P.F. program which might similarly provide a middle ground between the antagonists (and with "association" formed the first formal proposals of the R.P.F. in the second Assembly) is for education allowances which would provide a new approach to the perennial issue of state support of Church schools by providing an allotment for each school child, half to go automatically to the school attended. The head of the family may designate the other half for any activity of educational value. But De Gaulle's strongest rallying point is France itself, the need to make the country united and strong, with an organic relation to its colonies, and a distinctive role in Europe, a program whose appeal is undeniable, but whose cost to the democratic system might be great.

#### ORGANIZATION OF THE R.P.F.

Though originally insisting that it was not a party, the R.P.F. quickly developed the apparatus of one: a secretary-general, parliamentary groups and subsequently a parliamentary party, an executive committee (known since June 1949 as the Council of Direction), a national council, and yearly annual congresses. (The Gaullists have a special vocabulary of their own in which the congress is called "the assizes"; party members, "companions"; and speeches are studded with words like "duty," "discipline," and "national salvation.") The R.P.F. differs from most French parties, however, in the degree to which party headquarters controls departmental organizations: a departmental delegate, named by the central leadership, is responsible for liaison and for supervising the administration, attitudes, and actions of the local federations and the professional and social units organized by the Party. The delegate holds meetings in his area to instruct party members, and it is obligatory for all members to attend at least two of these meetings a year. In each department there is a

council, elected half on a territorial basis and half from outside interest groups, but its functions are advisory, and it acts through issuing "resolutions" which the delegate is expected to pass on to headquarters. In April 1949 the R.P.F. introduced a system providing for regional delegates who are empowered to make decisions in their particular areas.

The Council of Direction (formerly the executive committee) includes nineteen members, six of whom are parliamentarians. Though the statutes provide that it shall be an elected body, in practice its members have been appointed by De Gaulle, as is also the secretary-general. The National Council is a consultative body, and its 150 members include representatives of various professional groups (e.g., in 1951 they included thirty-three engineers and industrialists, twenty-six civil servants, seventeen doctors, seven journalists, and three ambassadors), delegates from the federations, and nominees of the party leaders. The party organization is thus highly centralized and well disciplined; equally, it is under the close personal control of De Gaulle.

Contrary to general practice in France or other democratic countries, many R.P.F. candidates in the 1951 election were the personal choices of De Gaulle. Moreover, both in De Gaulle's personal electoral declarations and those of the candidates it was stressed that a vote for the R.P.F. was a vote for the leadership of De Gaulle, though he himself refused to run in the campaign. The election also clearly indicated the desire to have a cohesive and disciplined party, rather than merely a large one: alliances and even joint lists were forbidden and, except in a few instances, those who concluded them to assure electoral success were ousted from the party. "Better a Rally represented in parliament by a less numerous group than a spectacular and fragile coalition," said one of the party leaders, Jacques Soustelle, in November 1950, "a Rally sure of itself and resolute in its cohesion."

#### DICTATORIAL POSSIBILITIES

No one can discuss the R.P.F. without considering two questions: Is it the vehicle for establishing a dictatorship in France under De Gaulle; and is it merely De Gaulle's party, or



has it elements of cohesion within itself apart from his leadership? Neither is easy to answer. Herriot has warned against the "adventurism" of the Gaullist movement; many people in and outside France see dangerous parallels not only to the two Napoleons and General Boulanger but also to the Fascism which beset Germany and Italy. Such parallels, of course, are indignantly repudiated by the Gaullists, and by none more emphatically than De Gaulle himself. Moreover, there seems no reason to doubt his sincerity. What is doubtful is whether if De Gaulle acquires the measure of power which he desires, and has a strong, disciplined party behind him, it will be possible to avoid dictatorship, and even some of the more ugly features of Fascism. That the regime would not follow the pattern of that of Hitler or Mussolini, that it would be *sui generis* (of its own pattern), would make it no less threatening.

Perhaps the most serious indication of danger to democracy is the General's failure to understand the extent to which free government depends upon political parties. He repeatedly attacks the parties as vested interests placing their own selfish aims before the welfare of the country, and he insists that France will be saved only when its people are united in a single, great patriotic movement characterized by unity, discipline, and sacrifice—words which, however understandable in terms of France's political difficulties, bear an alarming resemblance to Fascist slogans. Indeed, De Gaulle has declared that even the British people will not be able to work out their problems within the framework of political parties and has urged the formation of a "Rally of the British People"—a recommendation which suggests that De Gaulle may be perfectly sincere in his statements praising democracy but that he has no real understanding of what democracy is.

As to the second question: The R.P.F. minus De Gaulle would be something very different from what it is now, of course, but it is easily conceivable that the Party would neither collapse nor become less menacing. What creates a party which wishes to stand above parties are the conditions of permanent crisis and instability which the Fourth Republic has not yet been able to overcome. The continuance of Communist electoral strength in the country

and the threat of a reviving Germany are not difficult to play upon. Against them stand the amazing social stability of France, which in these circumstances is a strength, and the deeply ingrained suspicion of dynamic leadership and a strong executive (which contrasts sharply with Germany). All that can be said, perhaps, is that the future of such a movement depends as much on the environment in which it acts as on anything which it does itself. In this sense, the adequate working of the parliamentary system is the best protection against dictatorship which France can have.

### *The Third Force*

The term "Third Force" has both a specific and a general connotation. Specifically, it refers to the parliamentary coalitions which governed France from mid 1947 until the 1951 elections, coalitions composed of the Socialists,<sup>8</sup> the M.R.P., Herriot-led Radical Socialists and a number of individuals from smaller groups. What held these groups together was the threat from the Left and the Right, represented by a new Communist Party policy line which provoked the party's ejection from the Cabinet in May 1947 (see p. 282), and by the emergence of organized Gaullism and its instant and overwhelming popularity evidenced in the local elections that autumn. The Third Force, which was the answer of the parties dedicated to the constitutional system, was thus born in danger, and it secured its cohesion not out of any inner sense of unity but from the pressure of extremes. And this fact provides the general connotation for the term, Third Force, which may be applied to any coalition dedicated to the preservation of the Republic.

The problems of the Third Force are inherent and inevitable. Since unity is the result of external pressures rather than internal agreement, the parties belonging to the coalition suffer within themselves from the necessities of constant compromises, or else, as seems more common, are unable to pursue vigorous and

<sup>8</sup> Between February and July, 1950, the Socialists withdrew from the Bidault government. During this time the Socialists supported, for the most part, the re-formed Ministry just as they did the second Plevin government in which they did not participate.



effective policies. Had the Socialists and the M.R.P. been able between them to command an effective majority and at the same time to concentrate on social and economic problems, putting on one side their differences over clericalism, the Third Force might have been a stable and successful coalition, for both these parties are quite well disciplined. But it was also necessary to include the Radical Socialists, whose economic policies were poles apart from those of the other two, and whose lack of discipline is proverbial. The Third Force lasted because there was no acceptable alternative. It lasted, in a sense, even after the Socialists were no longer members of the Ministry, for they, being dedicated to constitutionalism, gave that tacit support that was essential to Third Force survival. But the very lack of an acceptable alternative is in itself the greatest handicap. However much the Socialists may dislike the steady shifting to the right within governmental coalitions, there is nothing they can do short of provoking crises which might provide the opening wedge for the R.P.F. Of the Third Force, considered in its most general form, perhaps the most that can be said is that it survives—and that while it survives, the constitutional order remains secure.

### III. ELECTIONS

#### *The Electoral System for the National Assembly*

The introduction of new electoral systems has had a profound influence upon the character of French political parties under the Fourth Republic. Two systems have been used thus far for the elections to the National Assembly, neither of them based on the pre-war system of single-member districts and election by the vote of a majority or (on the second ballot) a plurality (see p. 260).

Elections to the first National Assembly were based upon the principles of *proportional representation* combined with a "list" system. In general, each of France's departments was treated as a single electoral district (a few large departments were subdivided) and every district was allowed one seat for each approxi-

mately 55,000 registered voters. The electoral law assigned the number of seats for each department, and no department had less than two seats.

In each district, parties presented lists of candidates which the electors had to vote for as a block. Seats were then distributed according to the rule of what is called the "highest average vote." In the November 1946 election, for example, the votes in the Department of Doubs were distributed as follows:

#### THE NOVEMBER 1946 ELECTION IN THE DEPARTMENT OF DOUBS

<i>Parti Républicain de la Liberté</i>	51,395
Socialist Party (S.F.I.O.)	30,649
<i>Mouvement Républicain Populaire</i>	29,170
Communist Party	24,753

The first seat was given to the P.R.L. as the party with the highest vote. The vote of the P.R.L. was then divided by two (the total of one seat plus one) while the votes of the other parties were divided by one. This gave a result of 25,697 for the P.R.L., while the others, of course, retained the original figure. Therefore, the second seat was given to the Socialists as the party with the highest average. The next time the votes of the P.R.L. and the Socialist party were both divided by two while the M.R.P. and Communist votes were divided by one. The M.R.P. now had the highest vote and it received the third seat. Then the votes of the P.R.L., the Socialists, and the M.R.P. were divided by two and the Communist vote by one; and since the P.R.L. vote when divided by two (25,697) was larger than the Communist vote divided by one (24,753), the fourth and last seat was awarded to the P.R.L. In this way the P.R.L. received two seats, the Socialists and the M.R.P. each received one, and the Communists received none. Under the old system of plurality vote in single-member constituencies, however, if the party strength had been spread equally over each of four geographical districts, the P.R.L., as the leading party, would have won all of the department's four seats, leaving none for parties like the M.R.P., which had a substantial but not majority support in that area.<sup>4</sup>

<sup>4</sup> For a detailed consideration of the consequences of this electoral system, see pp. 299-300.

## THE NEW ELECTORAL LAW OF 1951

Just because proportional representation awarded seats in such close approximation to the votes cast, however, there were few subjects on which the moderate parties agreed more heartily than on the need for an electoral reform before the national elections of 1951. They feared that if the 1946 system were used again the Communists and Gaullists would be returned in such strength as to threaten the constitutional structure, for the electoral system used in 1946 undoubtedly gave the advantage to the parties with a national distribution of strength. Moreover the very fact that the center was split into several smaller parties penalized it severely in a contest with the parties on the extreme right and left unless there were some possibility of making alliances. A further factor in the urge for another electoral system was the hope of securing a stable, coherent majority which would facilitate the working of French parliamentary democracy.

It was far easier, however, to secure agreement on these objectives than on what should be the form of the new electoral law. The M.R.P., though as convinced as the Socialists and Radicals of the importance of establishing an electoral system which could produce a democratic majority capable of governing France, had benefited (as had the Communists), from the system used in 1946, and feared it would suffer through any change. The new electoral law, not passed finally until May 7, 1951, little more than a month before the elections were held, represented, in fact, a compromise not entirely satisfactory to anyone.

The new system under which the members of the 1951 Assembly were elected may be called a *modified majority system*. It provided for a single election in multi-member constituencies as in 1946, but the distinctive new feature was that all the seats would go to the party list, or to the coalition<sup>5</sup> or alliance of party lists, which obtained a majority of all the votes cast. Where the alliance of party lists was successful, seats were divided among

the parties participating in the arrangement in proportion to their shares of the total number of votes cast for the combined list. An instance of this was in the Department of Ardennes, where four seats were at stake, and the results were as follows:

Allied Lists:		67,680 (4)
Socialists	28,550 (2)	
M.R.P.	19,337 (1)	
Radicals	7,389	
Conservatives (Independents and Peasants)	12,387 (1)	
Separate Lists:		
Communists	32,741	
R.P.F.	21,641	

The total number of votes cast was 123,275,<sup>6</sup> and thus 61,638 votes were needed for an absolute majority. Since the allied lists totaled more than this, they won all four seats even though none of the parties individually equaled the vote of the Communist Party, and only one that of the R.P.F. The seats were distributed among the victorious allies according to the proportion of votes secured by each member of the alliance. To determine this, the total number of votes won by the alliance was divided by the number of seats, that is, 67,680 divided by 4, which equaled 16,920. This meant that the Socialists and the M.R.P., which polled more votes than the quotient of 16,920, each got one seat immediately. Next, the rule of the highest average (similar to that used in the 1946 system) was applied in the following manner: the number of votes for each list was divided by the number of seats it had gained plus one; the remaining seats were then divided among the allied parties which had the highest total after this formula had been used. Accordingly the Socialists gained a second seat, and the Conservatives (Independents and Peasants) were assigned the last seat.

In those situations where neither a party list nor an alliance of party lists received an absolute majority of the votes, the system of proportional representation based on the highest average was used, but the party lists were still allowed the full advantage of having com-

<sup>5</sup> A coalition, as distinguished from an alliance, occurs when several parties merge to offer a single list of candidates. The alliance is the more usual method of providing a slate.

<sup>6</sup> Split tickets, etc., account for the fact that this total is larger than the sum of the results for the particular lists.

bined. The way in which this worked can be illustrated by the results in the Department of Cher, for which four seats were designated:

Allied Lists:		52,024 (2)
Socialists	16,762 (1)	
M.R.P.	8,103	
R.G.R.	12,552 (1)	
U.D.S.R.	3,331	
Conservatives	11,276	
Single Lists:		
Communists	48,986 (1)	
R.P.F.	34,422 (1)	
(A minor party)	1,438	

The quotient was arrived at by dividing the number of votes cast, 136,870, by the number of seats, 4, with the result of 34,218. Since both the allied lists and the Communists had more votes than the quotient, each received a seat. By the rule of the highest average the R.P.F. won the third seat and the allied lists the fourth. The two seats won by the allied lists had then to be divided according to the same process as used in the Ardennes election, and the Socialists and R.G.R. each received one.

For the two Departments of the Seine and the Seine-et-Oise, the system of proportional representation was retained, but with the seats assigned by a new method, known as "the rule of the largest remainder."<sup>7</sup> According to this system, a quotient is determined by dividing the total number of seats for the constituency into the total number of votes cast; this quotient is then applied to the votes cast for each party list to determine how the first seats are awarded. Thereafter, however, seats are distributed according to the highest totals remaining; thus a party whose total of votes was lower than the quotient but higher than the remainder of votes of the stronger parties after the quotient had been subtracted would be awarded a seat, as would not happen under the method of proportional representation based on the highest average. The Communists and Gaullists rightly claimed that this system of the largest remainder, which clearly aids the smaller parties, was applied to the Departments of the Seine and Seine-et-Oise because of their heavy concentration in those areas and the

hope that this type of procedure would cut down their representation in the Assembly.

The particular feature of the 1951 electoral law is, of course, the advantage which accrues to an alliance or coalition of parties, and such an alliance is likely, of course, only among the governmental parties which need such strength to compete with the stronger parties on the extremes. In 1951 these coalitions or alliances were formed, not nationally, but within particular electoral districts. Such alliances could be concluded, however, only between "national parties or groups" contesting at least thirty constituencies; and all candidates had to be members of the party in whose list they were included.

The 1951 law retained the limited type of preferential voting for particular candidates, whereby the order of names on the ballot could be changed only if written in on fifty per cent of the ballots in a given district, a provision so difficult to fulfill as to have relatively little effect. The law also introduced the "split ticket" (see below), subject to the same restriction.

A particularly useful feature of the law was the reintroduction of *by-elections*. Under the former electoral law, vacancies were filled by taking the next candidate on the list of the party to which the loss occurred. The return to the practice of the Third Republic means that the Assembly is provided with some indication of shifts in voting sentiment (by-elections in Great Britain are looked on as particularly valuable in this regard). In method, too, by-elections mark a return to the practices of the Third Republic, for in these cases election is to be by a majority vote or (on a second vote) a plurality, a fact which some people believe may be the opening wedge for a return to the electoral system of the Third Republic, which many in the Assembly, including the R.P.F., favor.

#### CONSEQUENCES OF THE TWO ELECTORAL SYSTEMS

Both the 1946 and 1951 electoral systems have had obvious consequences for the fortunes and also the structure of French political parties. As far as proportional representation was concerned, there were three important consequences. In the first place, it was more difficult than under the system of plurality vote for any

<sup>7</sup> The same system was used in the overseas departments of Guadeloupe, Martinique, and Réunion.

party to get a clear majority of the seats in the country as a whole. Even under the Third Republic, of course, no party succeeded in winning a majority; but it was quite possible for a single party to win all of the seats in a single department and even to win a clear majority of the seats in certain large sections of the country. Under proportional representation, however, this was extremely unlikely. In department after department each of the four major groups received one seat; or perhaps one party received two seats while the others won one apiece. Only an exceptionally heavy plurality permitted a party to win more seats than its opponents. For example, in the November 1946 election the Department of the Aude cast the following vote:

Socialist Party	41,979
Communist Party	34,624
<i>Rassemblement des Gauches</i>	
<i>Républicaines</i>	27,269
<i>Mouvement Républicain Populaire</i>	23,161

Each party received one seat. The Socialist vote was far heavier than the vote of the M.R.P., but since the Socialist vote divided by two was 20,989 as against an M.R.P. vote of 23,161, the M.R.P. received the last seat. Such a system, therefore, tended to equalize party representation and to make less likely in any election spectacular gains or losses of seats.

The second consequence was to penalize localized parties, which lost the advantage of their local majority because other parties which were in a minority in those areas could still pick up seats. In a less obvious way, proportional representation aided parties with a national distribution of strength because they could be fairly sure of securing at least one seat in almost every area (thus the M.R.P. which ran third in the Department of Doubs, and fourth in the Aude, nonetheless received a seat in each department).

A third consequence was even more important. The 1946 electoral law, more than any other factor, led to the tightening of party discipline which has been one of the outstanding political characteristics of the Fourth Republic. A voter was not permitted to split his ticket. He could not decide that his favorite candidate was the number three man on the Socialist Party's list, that his second choice was the leader of the R.G.R.'s ticket, that his third choice was the

fourth name on the Communist list, and that his fourth choice was an M.R.P. candidate—and then vote accordingly. (The French term for splitting a ticket in this way is *panachage*, and it is detested by the Communists and the M.R.P., while the Socialists and the R.G.R. favor it.) The voter had to choose the list of one party and vote for that list only. Moreover, it was almost compulsory for him to accept the order in which the names appeared on the list. He could alter the order of the names on the ballot, but no attention was paid to this alteration unless more than half of the voters changed the order. Since the great majority of the voters simply marked the list they preferred, the first seat won by a party was given to the name at the top of the list, the second seat to the second name, and so on.

The result of such a system was greatly to restrict the voter's freedom to vote for particular individuals. The voter who was not a Communist but who liked one of the party's candidates or who, although he preferred the Communist Party to other parties, wanted to give some support to a few candidates of other parties, was nonetheless compelled to vote for the entire Communist list. Moreover, he had, for all practical purposes, to vote for the candidates in the order in which the party machine had arranged them. Thus the voter voted for a party rather than for an individual and, to an even greater extent than in Great Britain, successful candidates were designated by the party machines and not by the voters. The man whose name was placed first on a party list was almost certain to be elected. The man whose name was third or fourth would probably be defeated. In effect, therefore, it was the leaders of the organization who decided who should be elected and who should not. The successful candidate knew that it was not his personal appeal to the voters which had won him his seat, and he consequently acted with much less independence than did the typical deputy under the Third Republic.

Of the three major features of the system of proportional representation, the first has been moderated by the 1951 electoral law but in rather a strange way. The modified majority provisions make it quite possible for a single strong party, or for a strong alliance of parties,

to secure a governing majority in the National Assembly. But in practice, the provision for electoral alliances works—designedly—against the parties securing the largest number of votes, i.e., the Communists and the R.P.F., neither of which is likely to seek alliances. It is conceivable, of course, that the Communists or the R.P.F. could become sufficiently powerful to take advantage of the modified majority provisions and so sweep the country; but it is likely that if this threatened some other plan would be devised to strengthen the position of the other parties. Thus the usefulness of the 1951 electoral system as a safeguard for constitutionalism rests on the ability of the parties, other than the Communists and the R.P.F., not only to combine for electoral purposes, but also jointly to attract more votes than either the extreme Left or Right.

The new law is not much more promising than proportional representation for localized parties. It does, of course, permit them to take advantage of their geographical concentration to win all the seats in a given area—if they can command an absolute majority of the votes. But electoral alliances are permitted only for “national” parties contesting at least thirty constituencies, so that localized parties have to depend entirely on their own resources. Thus the 1951 electoral system is not likely to entail any reversion to the party localism of the Third Republic.

As for party discipline, that is still encouraged by the new electoral system. The department is kept as the electoral unit rather than reverting to single-member constituencies. As we have observed, the list system is retained, and also the requirement that fifty per cent of the voters must change the order of a list before such a change becomes effective. Though the 1951 law sanctioned the split ticket, this makes little difference, for this change, too, must be approved by at least half the voters. Thus party headquarters remains responsible for drawing up the list of candidates to represent the party, and for the order of names.

In many ways this increased discipline represents a political gain. One of the serious weaknesses of government under the Third Republic was the fact that even a Cabinet which had the official support of parties possessing a majority

of the seats in the Chamber of Deputies might be overthrown by deputies who failed to follow their party's leaders. Today, however, if only the leaders of the well-disciplined parties agree to support a government, there is much less danger that a defection of the rank and file in the National Assembly will overthrow it. It is true that critics of party discipline deplore, much as an American congressman would deplore, what they call the loss of personal independence of the deputy, and the fact that he follows the instructions of the party leaders rather than the will of his constituency. But greater discipline makes it possible for the voter to make up his mind about a party on the basis of its record, and such a judgment is almost impossible if party members vote on different sides of the same question. More criticism can well be leveled at the parties whose members accept little or no discipline and which, as they come increasingly into prominence in the governing coalitions in the Assembly, introduce elements of uncertainty all too reminiscent of the Third Republic.

Yet there was just criticism of the discipline of certain parties, especially in the early years of the 1946 Assembly. Contrary to British practice, by which the leaders who determine party policy are the parliamentary leaders who must submit themselves to the voters' judgment in a general election, the policy makers in some French parties did not sit in the Cabinet or even in the Assembly and were relatively unknown to the voters. To a considerable extent, such a situation undermined the parliamentary system, for the deputies became puppets who voted and even applauded in response to the decisions of an extra-parliamentary group.

This situation markedly improved, however, as certain parties which originally had minimal, or even no, parliamentary representation among their top policymakers recognized the disadvantages of such a system and began to revise both their attitudes and their organization. In certain instances, as in the Communist Party and the M.R.P., the same people became both parliamentary party leaders and heads of the party organization. In others, special groups like the Committee of 46 of the Socialists, and the *Comité Cadillac* of the Radicals, were authorized to decide on participation in the gov-

ernment, conditions of participation, the vote of party members on outstanding issues, and so forth.

What remains the most serious problem is that of securing a working majority in the National Assembly. Despite the advantages given by the 1951 electoral law to party alliances (advantages largely justified by the kinship between the parties making use of it), a stable majority was not secured. All that can be said is that the votes cast for the Communists and R.P.F. did not result in as large a number of seats as would have happened under proportional representation: estimates based on the former electoral law show that the Communist Party would have received 181 rather than 103 seats in the 1951 Assembly, and the R.P.F., 144 instead of 118. The Socialists would have received 86 seats and the M.R.P. 57, instead of 104 and 85, respectively. Thus the electoral law aided the moderate parties as against the extremes—but not enough to enable them to be a dominant group. And even though now a sizable group, it must be remembered that it is a group made up of parties that have a wide range of disagreements.

The late passage of the electoral law probably worked against its use to the fullest degree, however, for there was all too short a time to explain to party leaders on the departmental level both the political implications and technical significance of the law. This may help to explain why only seventeen "Third Force" alliances were concluded, and only thirty-six alliances of republican concentration, i.e., "Third Force" plus "Fourth Force." In twenty-two districts, there were alliances between two or three party lists which did not include the R.P.F.; in twelve, however, the R.P.F. joined in an alliance with the M.R.P., R.G.R., and independents. In twelve districts no alliances at all took place. Coalitions were altogether exceptional, resulting ordinarily only from the personal influence of an outstanding individual. While the pattern of alliances and coalitions is thus highly irregular, one fact stands out: only the Communists did not participate at any point in such arrangements.

That they did not do so was due partly to the unwillingness of other parties to co-operate with them even for electoral purposes but prob-

ably even more because the Communists insist so rigorously on complete control of their followers and party hierarchy. If, under the circumstances, this may have proved a handicap, it also serves as a strength so far as long term policies are concerned. The M.R.P. was extremely hesitant about the alliance feature of the new electoral law, fearing in much the same way that it might cause a blurring of party programs and a loss of party unity. The M.R.P. had, of course, a special reason for its reluctance to support the alliance system, for it feared, and rightly, that Socialists and Radicals would prefer to work with fellow anticlericals (as they had done in the cantonal elections of March 1949). Moreover, both the Communist Party and the M.R.P., however different in other respects, are of the new "mass" type, more adapted to contests of general principles than to the personal and local bargaining which suits the Socialists and Radicals. This is true also of the R.P.F., though in a slightly different sense.

The electoral system was avowedly aimed, as has been said, to secure a stable majority in the Assembly, but this required not only a majority of seats in the possession of the parties dedicated to the constitutional system but also some assurance of their willingness to work together. And pre-election alliances and coalitions, concluded only after arduous negotiations, rarely implied commitments lasting into the post-election period. At the same time, as the M.R.P. had feared, the alliance system tended to diffuse and, in some cases, erase unified party policies. Because the department federations were delegated the power to form alliances (sometimes with the reservation that the coalition lists had to receive the approval of central headquarters), one federation would make one kind of arrangement, while another made quite a different one.

Such divergencies within single parties were confusing to the voters, and did something to destroy the cohesion built up by the increase of party discipline. But there is also the possibility that the obvious manipulations of the electoral system, no matter how justified, may have undermined the confidence of the voters. The abstentions seem to suggest something of the kind. About two million of those eligible made no effort to register on the electoral list even though



there were provisions for last minute registrations; among the enrolled voters, almost 22 per cent failed to vote, approximately the same number as in 1946.

The purpose of the 1951 electoral law can easily be justified; its lack of success in achieving its objective can be as easily explained. In the end, no electoral system can of itself outweigh the sharp divisions in the country, and thus produce the stable majority which the British customarily enjoy, and the French have never known. In particular, no electoral system can overcome the dangers inherent in the existence of a large, highly organized party, the Communist Party, which consistently wins the votes of one-quarter of the French people but is dedicated to a nondemocratic regime, or the problems offered by another substantial group on the opposite end of the spectrum, the R.P.F., which opposes the "rule of parties." Between these two, the other parties are inevitably driven into a kind of working arrangement whether their aims are compatible or not. But as the *de facto* coalition is progressively enlarged to counteract the growing strength of its opponents, the central parties constantly face the dilemma, whenever a difference between them arises, of whether to compromise the position of the party and hence probably lessen its electoral chances in the future, or risk the regime and possibly the whole structure of government. Any truly constructive answer to this situation can lie only through a marked swing of the voters away from the Communist Party or greater willingness on the part of the R.P.F. to co-operate in support of the parliamentary system.

### *The Electoral Campaign*

It is still too early to generalize about the character of French elections under the Fourth Republic. The adoption of the department as the electoral district, and of the party list method, tend to mean that campaigns are no longer so individualistic and that election to the legislature is no longer so much a matter of personality and camaraderie. Because electoral districts are so much larger, it is more difficult to cultivate personal contacts with a large proportion of the increased electorate. In addi-

tion, since voters vote, not for individuals, but for parties, a candidate no longer campaigns as an individual but as a member of a list. Particularly in the case of the major parties, therefore, greater emphasis is placed upon national political organization and national party campaigns.

The method of campaigning varies according to the nature of the district. In large cities the great parties may hold impressive rallies and mass demonstrations. In large cities and small towns alike there are many smaller meetings in the public rooms of cafés, in private homes, schools, and motion picture theaters. Often the arrangements are very simple—a few chairs on a platform for local worthies, a bare table, perhaps a tricolor or a bust of Marianne (an idealized figure symbolizing the French Republic). Unlike British meetings, where the art of heckling is highly developed, the audience, particularly in the case of the Communists, the M.R.P., and the Rightist parties, is likely to be very serious, especially since it is usually composed of those who already are convinced adherents. The Socialists are more likely to have a general discussion, with questions from the floor and an exchange of views between speaker and audience. And as political feeling has grown more bitter, the Communists have broken up many of the meetings of their political opponents, especially those of the R.P.F. Often there are marked differences in the types of people comprising the audiences of different parties. The Communist Party is perhaps the most difficult to classify, since it attracts both young and old, both industrial and white-collar workers, both men and women. The M.R.P.'s audiences, in contrast, are generally middle-class, while the Conservatives' meetings are attended by a notably well-dressed and well-washed crowd. Socialist meetings—particularly those which follow the tradition of a casual group in a café—are likely to be composed of petty bourgeoisie. Women are more in evidence at the meetings of the Communists and the M.R.P. than at those of other parties. The R.P.F. used to draw particularly from the upper classes but now has adherents at all levels of society.

Posters, displays, and slogans are among the main campaign devices. Intense rivalry exists



among the various parties to make theirs the most colorful, the most eye-catching and the most deadly in their indictment of the opposition. A typical poster, for example, appeared at a Radical Party Congress a month before the June 1951 elections and proclaimed: "To vote Communist is to betray France. To vote R.P.F. is to vote Communist by dividing Frenchmen. Vote the ticket of the Republic by voting for the Radical Party, the party of experience, of reason, and of liberty."

National radio time, according to the provisions of the 1951 electoral law, is allotted equally among the parties qualifying as "national" (there were eleven in 1951). The parties themselves print the circulars, posters, and, more surprising, the ballots, for their own lists, but are required to mention all affiliations concluded by the party. The state pays the cost of printing and mailing. To lessen the financial advantage which any one party might have over others, the government also reimburses party organizations for the gasoline used in campaigning. To acquire these privileges, however, the party organization must deposit a bond of 20,000 francs per candidate on the party list, and this bond is forfeited to the state if the party fails to obtain 5 per cent of the votes cast in the district.

#### VOTING

On election day, a Sunday, the voter, previously registered and duly enrolled on the electoral lists, must identify himself to the board of elections. In French towns of over 5,000 he can do so by producing his "carte d'électeur" plus one of various identifying devices authorized by the government. Elsewhere identification is less formal. Next the voter takes an envelope and, in private, places within it the ballot of his choice—either exactly as made out by the party, or revised in one of the two ways allowed, or completely written out by the voter—and drops the envelope into the ballot box. At the end of the ten-hour period set aside for voting, the board of elections in each voting district adds up the results, and these are then sent, along with the ballots, to the district counting commission. The final results are announced by the Ministry of the Interior.

### *The Geography of Elections*

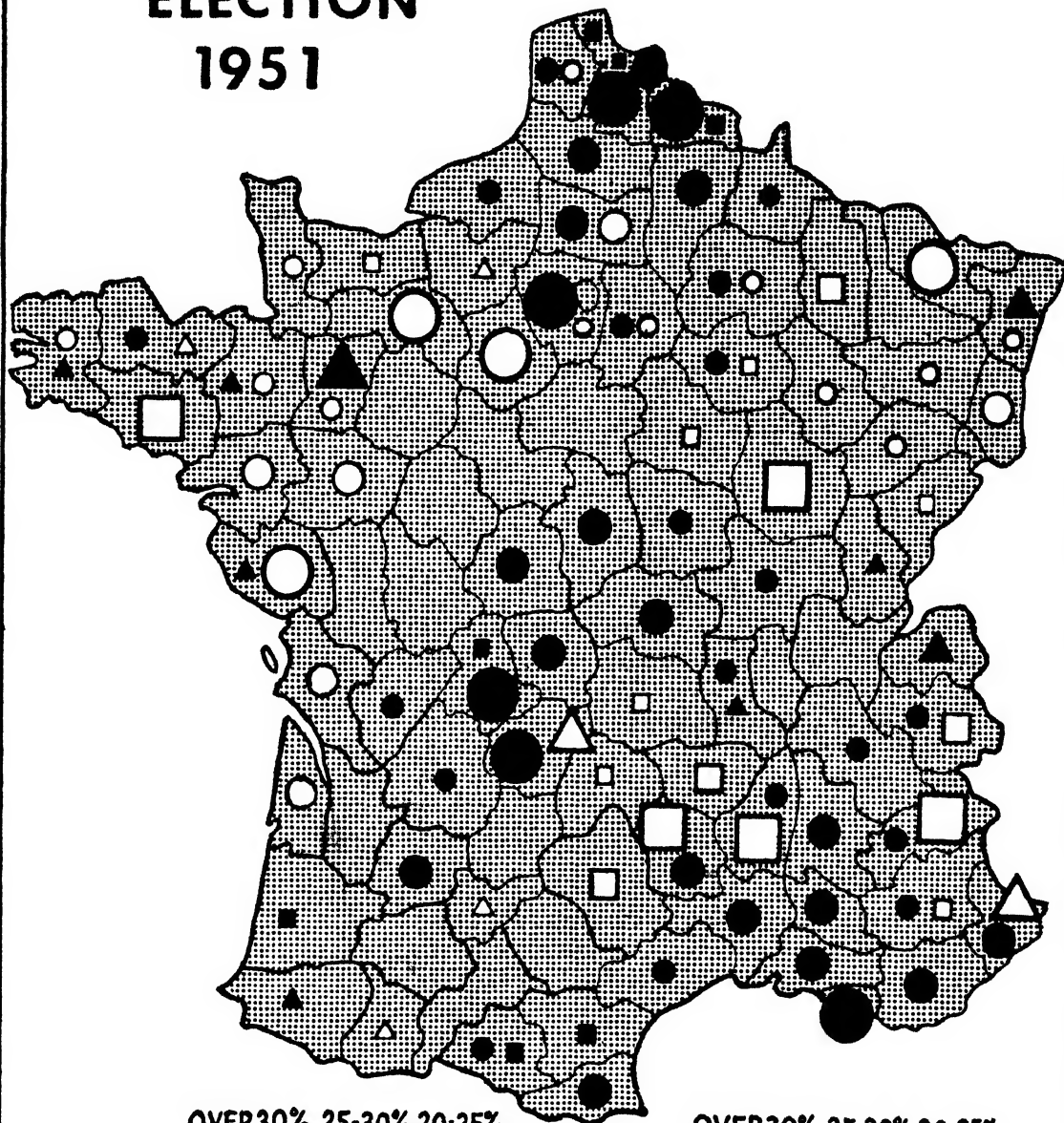
Under proportional representation party representation was distributed far more evenly throughout France than was the case under the Third Republic. Even the most conservative department could rally enough left-wing votes to send one left-wing member to the National Assembly; and it was the exceptional department which made no contribution to the parliamentary strength of one of the center or right-wing parties.

The change in legislative representation did not mean, however, that there had been a corresponding change in the political complexion of the different sections of France. By and large, the same districts which formerly voted Left or Right supported or opposed the Communists and the Socialists. After the liberation the political character of the country as a whole was somewhat more radical than in earlier times. Departments which formerly gave their largest vote to Socialist candidates were likely to give their largest vote to the Communists, and the M.R.P. succeeded in winning departments which formerly supported parties further to the Right. The R.P.F. soon began to encroach, however, on areas supporting the M.R.P.; by 1951 it had modified the electoral map by winning strong support not only in areas traditionally conservative but also among the working class, particularly in the Paris suburbs, a traditional bastion of the Communist Party.

In 1951 the Communists demonstrated that they not only had the largest electoral support of any French party but also the widest geographical distribution. The R.P.F. failed to make much headway in the south but otherwise had fairly comprehensive distribution of electoral strength. The Socialists, M.R.P., R.G.R., and the Conservatives all showed regional strength, sometimes in widely separated areas, but little more. Only the M.R.P. of these four center groups had more electoral strength in the urban, industrial sections of France than in the rural areas, whereas both the Communists and the R.P.F. have their predominant strength in urban, industrial France. At a time when so much attention must necessarily be given to economic and social issues, it is obviously a serious matter that the center parties

# GEOGRAPHY OF A FRENCH ELECTION

## 1951



OVER 30% 25-30% 20-25%

COMMUNIST



R P F

SOCIALIST



CONSERVATIVE



M R P



R G R

OVER 30% 25-30% 20-25%



should be relatively weak in comparison with those of the extremes in the more modern, less traditional areas which necessarily press most for change.

Every party has its own strongholds. The Communist Party has its greatest strength in the mining districts in the northwest, the northern and western borders of the *Massif Central*, and certain rural areas (once Montagnard) of the South-east. The Socialists are still strong in some rural areas of the south of France, and have maintained workers' support in the north, the Pas-de-Calais, the Ardennes, and the northeast of Paris, though otherwise their votes are largely from the middle class or peasants. The M.R.P. is particularly affected by regional distribution of support, since it is strong in the West, Alsace, the Moselle, and certain specific departments like the Jura. The R.G.R. has lost to the R.P.F. but gained from the Socialists and has particular strength in the South-west (Toulouse) and in middle-class areas in Paris and its surroundings. The Conservatives are far from having regained their pre-World War II position particularly in Paris but make a good showing in Lorraine and the *Massif Central*. The R.P.F., of course, has penetrated widely in the east, west, and north; only in the south is it still relatively ineffective, as the electoral map on p. 305 shows.

### ***Elections for the Council of the Republic***

The composition and powers, in fact the very existence, of a second chamber were subjects of the most heated debate during the constitutional conventions. When a weak second chamber was introduced into the second draft, which became the Constitution of the Fourth Republic, it was stated only that the Council of the Republic should be elected "by the communal and departmental bodies by universal indirect suffrage." The particular form of the electoral law was left to the Assembly, in whose hands thus rested the decision as to how far the second chamber would differ in composition, and thus attitudes, from the lower one.

Since there had not yet been a chance to hold local elections throughout the country, the first Council of the Republic was chosen as a provisional body through elections in November

1946. These were held under a temporary law embodying some of the most complicated devices known to the mind of man, but involving proportional representation, and also nomination by the Assembly. The complexity of the law coupled with the long lists of candidates, the vagueness of the titles under which they were presented, and highly complicated coalitions varying from department to department helped to dim popular interest in the election. The parties retained surprising fervor, however, considering the apparent weakness of the chamber they were electing, and proved able to dominate these elections just as they had dominated those for the Assembly. When the Assembly exercised its privilege of nominating one-sixth of the members, the Council of the Republic emerged as an almost exact replica of the National Assembly.

This political parallelism, resulting largely from the electoral system, reawakened arguments for a different electoral method for the Council of the Republic, whose membership was to be chosen again as a whole within a year after the renewal of the municipal councils in the autumn of 1947. Only the Communists held to the system used in November 1946. General de Gaulle pressed for a partly corporative second chamber (though earlier proposals for this had been rejected because of the association with Fascism), while the center parties began to yearn for a closer approximation to the old Senate, which could act as a bulwark of conservatism. With the Socialists acting as spokesmen, it was finally decided that the Council of the Republic should represent, not individuals, but areas, above all the smallest local communities. Thus, as far as method of selection was concerned, the Council of the Republic began to return to the pattern of its predecessor, the Senate, with local governing bodies, particularly those of the smaller towns, having a preponderant influence.

The first regularly elected Council of the Republic was chosen in the autumn of 1948, and at this time the membership was increased from 315 (the size after the 1946 election), to 320, the maximum number permitted by the Constitution. Of these, 246 represented France itself, 14 represented Algeria, 51 represented various overseas departments and territories, 8 rep-

resented Frenchmen living in protectorates and foreign lands, and one represented Frenchmen living in Indo-China. The members of the Council serve a six-year term, and half the seats are renewable every three years, beginning May 1952.

The law providing for the election of the Council enhanced the political influence of the smaller communities and restricted the use of proportional representation—both of which worked to reduce the power of the Communists. Those members of the Council who represented France itself were chosen by electoral colleges in each department, composed of the deputies from that department, members of the general council of the department, and a certain number of delegates from the communes (pp. 369). Towns with less than 9,000 inhabitants were allowed from one to fifteen delegates in proportion to their size; towns of more than 9,000 sent all of their municipal councillors as delegates; towns with more than 45,000 inhabitants were allowed an additional delegate for every additional 5,000 inhabitants.

In France, Guadeloupe, Guiana, Martinique, and Réunion, seats in the Council of the Republic were distributed among the departments roughly in accordance with population. Each department was allotted one seat for its first 154,000 inhabitants and one seat for every additional 250,000 inhabitants. The Department of the Seine (Paris) thus received twenty seats, the Department of the Nord nine, and the other departments anywhere from one to seven. In those departments having four seats or less, the members of the Council of the Republic were chosen by majority vote of the electoral college; the other eleven departmental electoral colleges voted by proportional representation. Such an arrangement, not unexpectedly, worked to the advantage of the less well-disciplined parties, the Socialists, the R.G.R. and the independent groups. It was also advantageous to the groups on the Right, in particular the Gaullists who had scored so notable a success in the local elections of 1947 which selected the municipal councillors who in turn constituted the bulk of the electoral college. Thus the Council of the Republic emerged as a body of different political complexion from the National Assembly, and the question of what use it would make

of its limited powers became of increased importance.

### *Election of the President*

The President of the Republic is elected for a term of seven years and may be re-elected once.

The Fourth Republic has consecrated the system of indirect election which was established by the Third. The President is chosen by the members of the two chambers of the legislature meeting in joint session at Versailles; the legislature presumably can be trusted not to choose anyone likely to threaten its power. The people themselves have no calculable choice in the matter. Legislators are not chosen at the same time as the President, and there is no way of casting one's ballot for a member of the National Assembly in order to promote the chances of one's personal preference for the presidency. Here again, the multi-party system means that no party can impose its own leader on the others: the President inevitably is a compromise candidate.

The first election for the President under the Fourth Republic was by secret ballot, though there is no constitutional requirement to this effect. The presiding officer drew a letter of the alphabet by lot (in the 1947 election it was the letter L), and the roll of deputies and councillors was then called, beginning with that letter. As each name was announced, the deputy or councillor came forward, mounted the tribune, gave his vote in a plain envelope to one secretary and a small "ball of control" (so that there would be a check on the number of votes) to another, and both the ballot and the small ball were placed in urns.

Election is by a direct majority of the votes of the members of parliament, who continue to ballot until a single candidate wins this majority, although even under the Third Republic it was never necessary to take more than two ballots. In 1947 Vincent Auriol (a leading Socialist who, as Constituent Assembly President, had displayed patience, good humor, and a remarkable ability to reconcile the views and interests of opposing parties) won 452 votes on the first ballot, a clear majority over the combined votes of the candidates of the

M.R.P. (242 votes), the R.G.R. (122 votes), and the Right (60 votes).

#### IV. HOW WELL DOES THE FRENCH PARTY SYSTEM WORK?

Any attempt to evaluate the new French party system raises the same questions which arose in connection with British parties (pp. 40, 68). The answers, however, are quite different.

##### *Representatives of the French Parties*

In one sense, the French party system reflects the desires of the voters more accurately and gives them a far more meaningful and adequate choice, both of principles and of leaders, than does the British system simply because the choice is far greater.

In another sense, however, the choice is less meaningful. The very fact of the multiplicity of parties means that no party is able to win a majority of the vote and, therefore, that the voter really is not able to express a choice between alternative governments. At times, in fact, the voter seems to get the very opposite of what he wants. The November 1946 election of the Assembly (p. 280) was considered, more than anything else, to be an extremely grave defeat for the Socialists. Yet the first Cabinet to be formed after the election was purely Socialist in composition; and even when other parties entered the succeeding Cabinet, the Socialists provided the Premier and more ministers than any other party. In addition, a Socialist was chosen President of the Republic. It might be claimed, therefore, that whatever the French people were voting for in the fall of 1946, they certainly were voting against a Socialist government; yet a Socialist government was precisely what they got. Again, in the fall of 1947 the M.R.P. was the heavy loser in the local elections, indicating a general loss of support for the party, but the next Premier was chosen from that party.

A defender of the French system might reply (duplicating to some extent the argument of British Liberals, p. 68 above) that actually this result was not such a serious distortion of the

popular mandate; on the contrary, it was exactly the sort of government most satisfactory to the French people. The French system, he would say, works very well indeed, for although the heaviest vote in 1946 was cast for the Communist Party, and the next heaviest for the M.R.P., the M.R.P. would have abhorred nothing more than a government by the Communists, and the Communists would have detested any government of the M.R.P. Both parties, however, could reconcile themselves to Socialist rule. If a Socialist government, therefore, was not the government most Frenchmen wanted most, it was still the government most Frenchmen disliked least. Similarly, in 1947, a government of the M.R.P. was probably a lesser evil, so far as most Frenchmen were concerned, than a government either of the R.P.F. or of the Communists.

##### *Compromise Among French Parties*

One of the difficulties of the French electoral system, when combined with the multi-party system, is its tendency to emphasize the differences between parties instead of minimizing them, as in Great Britain. Once the election is over, however, the very existence of a multiplicity of parties necessitates a compromise and mutual concessions if the government is to work at all. In Great Britain the parties, in appealing to the uncommitted voter in the middle, tend to moderate their stands and to achieve the compromise *before* the election. In France the compromise takes place afterward—and then it is not ratified by the voters but by the parties' headquarters.

##### *Choice of Party Candidates and Policies*

What results, then, is that, unlike the British and Americans, the French people at present have no direct way of passing on either the principles or the officials that are to guide the government. They must accept the kind of compromise which is worked out, after elections, by the officials of the parties—many of whom may not have been elected to any public office and many of whom, in any case, cannot be held personally responsible by the voters.

British and American voters can choose their

leaders and, to some extent, their policies because each country has a two-party system, and only in such a system is one party certain of winning a majority. It seems natural to ask, therefore, whether it would not be much better for France to have a two-party system, and whether this in itself would not give the people a much better opportunity to participate in their government. In this respect, the recent tendency of the French people to move away from the Center and toward the extremes of Right and Left might be taken as an encouraging sign.

The trouble with this suggestion is that the two-party system which France would develop under such circumstances would be fundamentally different from the two-party system in either Great Britain or the United States. One of the things which distinguishes the Democratic and Republican parties in the United States and the Labor and Conservative parties in Great Britain is the fact that they accept

certain common political assumptions and values, that neither party feels that the country is irretrievably lost if the other party triumphs in the election, and that each party knows that there will be another election and another chance for it to win. In France none of these assumptions necessarily holds. The two parties which polled the heaviest vote in the 1951 election were the Communists and R.P.F. If these should turn out to be the two great parties of the future, the result would be not an advance toward democracy but an advance toward civil war. Each party detests the other, neither party shares any principle in common with the other (unless it be a common intolerance of opposition), neither party would have the slightest confidence that if the other won power it would ever again yield it. Without such common assumptions and mutual trust democracy cannot work, and the loss of strength by the Center parties is therefore an ominous sign for French democracy.

## CHAPTER 4

# The French Parliament

### I. THE CHARACTER OF THE NATIONAL ASSEMBLY

#### *The Powers of the National Assembly*

The most distinctive characteristic of the Constitution of the Fourth Republic is its concentration of almost absolute power in the hands of one chamber, the National Assembly. The foreigner, in looking at the structure of French government, might be tempted to compare the National Assembly to the American House of Representatives; but the French National Assembly is not simply one organ of government among many, taking its place side by side with the Council of the Republic, the Cabinet, and the Presidency. It is the supreme agency to which all others are subordinate. Between elections it alone speaks in the name of the people of France. If, as in Great Britain, there is a fusion of powers, it is the Assembly which really controls the Cabinet, not the Cabinet the Assembly. The new second chamber, the Council of the Republic, cannot obstruct its will for more than two months. The President is largely dependent on the Assembly for his election. And no man may serve as Premier until he has received the prior approval of the Assembly.

Even the name of the Assembly is significant. Under the Third Republic "National Assembly" referred to the two houses of parliament when they met in joint session as the supreme assembly in the land, to elect a president or to amend the Constitution. The giving of the title to just one of the two houses of parliament is symbolic of the fact that it alone is the possessor of supreme authority.

#### *The Composition of the National Assembly*

The Constitution declares that the National Assembly must be elected "by universal direct suffrage," but since the particular details of the electoral system are provided by ordinary statute, the Assembly may vary in size from election to election. The first National Assembly, elected in November 1946, contained 618 deputies—544 from France and 74 from its overseas constituencies; the second National Assembly, elected in June 1951, had 627 deputies—544 from France, as before, but now 83 from overseas.<sup>1</sup>

For better or worse, the distribution of seats by parties in the Assembly is a more accurate reflection of the popular vote than has generally been the case in the distribution of seats in Great Britain's House of Commons. This was particularly true under proportional representation although, as we have seen, that system tended to exaggerate the strength of the large, well-organized, and well-financed parties and to minimize the strength of the smaller and looser political groupings. But even though the second electoral method, the modified majority system, permitted somewhat more distortion, it still did not approach that which has often (though not recently) occurred in Great Britain (see p. 74). This can be seen by comparing the election statistics with the representation of the parties in the National Assembly in the two elections of November 1946 and June 1951. The third chart on the next page shows the variety of party groups in the Assembly.

<sup>1</sup> In 1946 there would have been one more deputy if it had been possible to hold an election in Cochinchina. In 1951 there were 626 members until September, when Oceania held its elections.



## THE ELECTIONS TO THE NATIONAL ASSEMBLY

	1946		1951	
Voters				
registered	25,052,233		24,973,148	
Abstentions	5,487,000	21.9%	5,457,790	21.8%
Invalid				
ballots	362,163		533,349	
Votes cast	19,203,070		18,982,009	
Communists	5,489,288	28.6%	5,038,587	26.5%
Socialists	3,431,954	17.9	2,764,210	14.5
M.R.P.	5,058,307	26.4	2,353,544	12.3
R.G.R.	2,381,384	12.4	2,194,213	11.5
Conserva-				
tives	2,465,526	12.8	2,496,570	13.1
R.P.F.	313,635 *	1.6	4,134,885	21.7
Miscellaneous	62,976	0.3		
	19,203,070		18,982,009	

\* These votes were cast for Gaullist Union lists.

## REPRESENTATION IN THE NATIONAL ASSEMBLY

	1946		1951	
	Deputies	Per-centage	Deputies	Per-centage
Communists	187	30.3	103	16.5
Socialists	103	16.7	104	16.6
M.R.P.	166	26.8	85	13.6
R.G.R.	65	10.5	94	15.0
Conservatives	73	11.8	98	15.7
R.P.F.	5 *	0.8	118	18.8
Miscellaneous				
Overseas				
parties	19	3.1	24	3.8
	618		626	

\* Candidates elected on the Gaullist Union ticket.

In the first postwar Assemblies the most conspicuous elements were manual and white-collar workers, teachers, lawyers, writers and journalists, farmers and agricultural workers, businessmen, with a sprinkling of doctors, civil servants, and others. The occupational difference to some extent followed party lines. Most of the workers were Communists; lawyers, teachers, and journalists predominated among the Socialists; lawyers and teachers among the Radical Socialists; lawyers, farmers, teachers, together with a number of workers, journalists, and small businessmen among the M.R.P.; and lawyers, businessmen, and agricultural propri-

etors on the Right. Most of the women sat with the Communists or the M.R.P. (voting, according to the current witticism, for heaven either in this world or in the next).

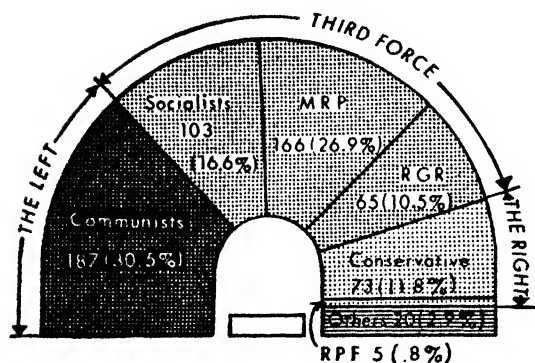
As compared with the 1946 Assembly, the 1951 Assembly contained not nearly so many workers nor even so many civil servants and white-collar workers, but there was a marked increase in the number of heads of companies and industrialists. Among the professions, farmers, lawyers, and teachers were the most numerous, and there were twice as many doctors in the 1951 Assembly as in the former one.

## PARTY GROUPS IN THE NATIONAL ASSEMBLY

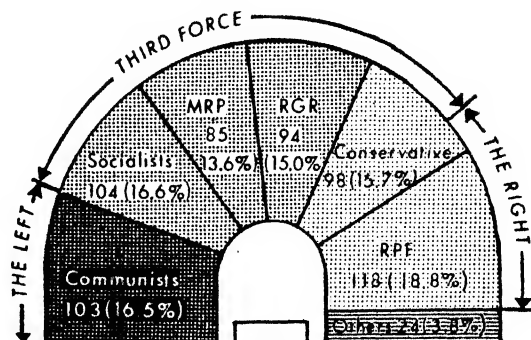
After the Election of 1946	After the Election of 1951
Communists	Communists
169	99
Affiliated	
1	
Republicans and Re-	Union of Progressive
sistants	Republicans
12	4
Socialists	Socialists
103	105
	Affiliated
	2
M.R.P.	M.R.P.
163	83
Affiliated	Affiliated
3	2
	Overseas Independ-
	ents (affiliated)
	9
Radical Socialists	Radical Socialists
43	66
	Affiliated
	6
U.D.S.R.	U.D.S.R.
23	14
Affiliated	Affiliated
5	2
"Triumph of Liber-	African Democratic
ties" (An Alge-	Rally
rian Party)	3
5	
Independent Musul-	Independent Republi-
mans (An Alge-	cans of Peasant
rian Party)	and Social Action
8	34
	Affiliated
	3
Peasant Action	French Independents
Affiliated	(affiliated)
6	3
1	
Independent Republi-	Independent Republi-
cans	cans
27	43
Affiliated	Affiliated
2	8
P.R.L.	R.P.F.
35	118
Affiliated	Affiliated
3	3
Unaffiliated	Unaffiliated
9	19
618	626

## THE FRENCH NATIONAL ASSEMBLY

AFTER 1946 ELECTIONS



AFTER 1951 ELECTIONS



Six generals and one rear admiral added a military note. There were only half as many women as in the former Assembly, and fifteen of the twenty were Communists. All in all, the deputies of the 1951 National Assembly resembled considerably those of the lower house in the days of the Third Republic.

Out of the 626 deputies chosen by July 1951, 243, or 38 per cent, had not been members of the preceding Assembly. Not surprisingly, the largest proportion of new members was in the *Rassemblement du Peuple Français*, ninety of whose representatives had not sat in the 1946 Assembly, while seventy-seven of them were without previous parliamentary experience. On the whole, however, the deputies were an experienced group, for fifty-eight of those officially ranked as "new" had previously been parliamentarians, or members of the second chamber, or of the Assembly of the French Union, while many of the others had had experience as municipal councillors, mayors, or general councillors.

There is one group whose presence in the lower chamber under the Fourth Republic gives rise to increasing concern: the deputies from overseas constituencies, numbering eighty-two in the 1951 Assembly. In the constituent assemblies (as Gordon Wright has pointed out in *The Reshaping of French Democracy*), these

overseas representatives had played a considerable role in the bargaining between party groups; in the National Assembly they have been acting increasingly as the arbiters of internal politics. This is an unforeseen and disconcerting by-product of the concept of French Union for which no solution is yet apparent.

### MEETING PLACE

The National Assembly meets in the same hall in the Palais Bourbon which formerly was used by the Chamber of Deputies. In contrast to the rectangular chamber of the House of Commons, the auditorium is a semi-circular amphitheater with close-packed benches rising sharply one above another. Members of the Ministry (whether they are members of the National Assembly or of the Council) occupy a bench known as the *banc des ministres* or ministerial bench. In front of the auditorium is a high ornate desk, approached by a flight of stairs on either side. Here sits the President of the Assembly, flanked by secretaries at lower desks. Immediately in front of the President's desk is a rostrum, the "tribune," from which deputies address the Assembly.

Parties are grouped on the curved benches according to the shade of their political views, the Communists sitting on the extreme left and, in the 1946 Assembly, the *Parti Républicain de*

*la Liberté*, the agrarians, and the "Republican Independents" on the extreme right. With the entrance of the *Rassemblement du Peuple Français* as a separate party in 1951, it was assigned the position on the extreme right but rebelled violently, maintaining that neither its general views nor its social program qualified it for so objectionable a position. For a time, the R.P.F. deputies spread themselves across the back benches in a remarkable seating arrangement not unlike that which enabled both the *Mouvement Républicain Populaire* and the Radical Socialists to sit next to the Socialists in the 1946 Assembly. The Left, of course, is the prized position, and almost any kind of maneuver will be made to secure some of its prestige. (The accompanying diagrams indicate the relative strength of the major political groups following the elections of November 1946 and June 1951. The diagrams, however, do not attempt to reproduce exactly the complicated and shifting groups or seating arrangement in the Assembly.)

The spirit of such an assembly differs fundamentally from that of the House of Commons (p. 81). Instead of the sharp division between Government and Opposition which forces every Member of Parliament to take his position clearly on one side or the other and which makes any desertion of his party an extremely conspicuous act, the French arrangement is one of slight gradations from left to right. Parties blend into one another, and it used to be easy for deputies to shift from one party to another. Occasionally, a French politician, in the course of several decades in the Chamber of Deputies, might make a substantial journey from right to left or from left to right. Under the weak party discipline of the Third Republic the instability of successive governments was often attributed to the ease with which a member could shift a single degree to the left or the right and vote with his neighbors against his own party. Winston Churchill expressed a typically British reaction to this situation when he told the House of Commons in his famous speech of October 28, 1943 (p. 82), that

the semi-circular assembly, which appeals to political theorists, enables every individual to move round the centre, adopting various shades of pink according as the weather changes. I am a convinced supporter of the party system in preference

to the group system. . . . The party system is much favored by the oblong form of Chamber. It is easy for an individual to move through those insensible gradations from Left to Right but the act of crossing the Floor is one which requires serious consideration. I am well informed on this matter, for I have accomplished that difficult process, not only once but twice.

Under the Fourth Republic, heightened party discipline in some groups has acted as a restraint upon such movement in the French Assembly, but within a relatively few months after the liberation a prominent member, Pierre Cot, made the transition from Radical Socialism past Socialism to a seat near the Communists.

A more important consequence of the arrangement of the auditorium is reflected in the type of parliamentary oratory. The French deputy who wishes to address his colleagues does not rise in his place, as in Great Britain, and speak in casual and conversational tones with courteous references to the "honorable gentlemen" on his right and left. He mounts the tribune, and often he orates. The speeches in the National Assembly frequently are more polished and brilliant than their Anglo-Saxon counterparts; but it is doubtful whether they contribute as much to the process of serious discussion and compromise. There is a great temptation to elicit cheers and applause from the close-packed benches and to impress or electrify an audience composed of connoisseurs of eloquence. The temptation is almost as great to provoke the fury of the opposition by the vigor of one's attack and the sharpness of one's taunts. Noble sentiments from the Left are met with ironic laughter on the Right; a particularly nasty taunt or insinuation provokes shouts of protest and, in extreme instances, deputies on one side of the auditorium may hurl themselves on their opponents, while attendants hastily intervene and the presiding officer suspends the session. At times disorders are deliberately provoked, notably by the Communists, as a form of filibuster—to prevent the transaction of business. During the autumn of 1947 one Communist even barricaded himself in the tribune and forced the suspension of debate until troops arrived to remove him the next morning. In March 1950, the Communist deputies as a group tried to disrupt a sitting of the Assembly de-

voted to voting a law providing safeguards against sabotaging war materials and precipitated a near-riot which was only quelled by the Republican Guard.

To attribute such episodes to the fiery Gallic temperament is a great oversimplification. In reality they reflect two great handicaps from which the French political system suffers. The first is the fact that political differences are so deep as to make it extremely difficult for men of the extreme Left and extreme Right to treat each other with the courtesy and forbearance that are so fundamental a part of the British parliamentary tradition. Second, and even more important, is the fact that on the extremes there is little if any loyalty to the institutions of parliamentary democracy as such. In Great Britain the first loyalty of almost every Member of Parliament is to the constitutional system; very few would be willing to discredit the system in order to win an advantage over a political opponent. In France members of the political extremes may actually profit by making parliament appear ridiculous; for the mass of the French people would turn to either a Communist or a Fascist dictatorship only if they were convinced of the unworkability of democratic institutions, and every disorderly incident contributes to this conviction.

### *The Organization of the National Assembly*

#### THE PRESIDENT OF THE NATIONAL ASSEMBLY

In such an assembly the presiding officer obviously has a more difficult job than does the Speaker of the House of Commons. His office lacks the traditional prestige of the Speaker's, his audience is infinitely more unruly, and he must compensate for these deficiencies by a somewhat more remarkable personal character.

Ordinarily the presidency of the Assembly is awarded to one of its distinguished members, a man who, in all probability, is no mean orator himself. He is likely to have a genial personality combined with considerable force of character and long parliamentary experience. He must be well-liked and trusted by at least several of the parties, for he is elected by the Assembly by majority vote, and his job would become im-

possible if any section of the Assembly suspected him of constant and vigorous partisanship. Tradition permits him to be somewhat friendlier to the combination of parties which elects him than would be proper in Great Britain, but in general he must be characterized by fairness and integrity. Perhaps even more important is an ability to detect the imminence of a crisis and a command of the soothing or witty or, at times, stern phrase which will avert it. Presence of mind is important, and patience is indispensable.

The embodiment *par excellence* of these qualities is Edouard Herriot, who was not only President of the Assembly throughout almost the whole lifetime of the Assembly elected in 1946 but was also re-elected by the 1951 Assembly. Herriot, perennial mayor of Lyons, leader of the Radical Socialists, champion of the Third Force, "the grand old man of the Fourth Republic," performed his functions as President of the Assembly with wit, dignity, and skill. Like the Speaker in the House of Commons, the President of the Assembly grants the right to speak in debate, tries to keep speakers to the issue under discussion, maintains discipline by calling the Assembly to order, and if necessary suspends or closes the session. But in line with the tradition of not granting too much power to individuals, the French Assembly has never been willing to accord real authority to its President; e.g., deputies who persist in wandering from the subject can be finally checked only by vote of the Assembly itself. Herriot was able, for example, by skillful use of parliamentary procedure, to avert a threatening governmental crisis during the debates on the electoral law adopted in the spring of 1951, but despite his great personal prestige and political acumen he often could not divert deputies from using debates for the utterance of political propaganda to a degree inconceivable in Great Britain.

But while the President of the Assembly is occasionally treated with cavalier disregard within the chamber over which he is the highest authority, his position outside is one of great distinction. At public functions, he yields in precedence only to the President of the Republic; and he is provided with an official residence inside the precincts of the Assembly. His greatest power comes into being in the

case of a dissolution of the Assembly, when, according to the Constitution of the Fourth Republic, he becomes Premier.

#### THE BUREAU

The President of the Assembly together with its other officers (six vice-presidents, fourteen secretaries, and three questors, who look after such matters as the library and the general maintenance of the order and comfort of the Assembly's meeting place) constitute what is known as the *bureau* of the Assembly. Until the autumn of 1947 positions in the bureau were distributed among the party groups in proportion to their strength, the largest party receiving the first vice-presidency. The formation of the Cominform (p. 566) the spread of strikes under Communist leadership, and Communist obstruction of debate, roused fears that the Communists, as the largest party in the Assembly, would abuse their position if, in case of a dissolution, Herriot, because of bad health, would feel unable to accept the office of Premier which would then go to the first vice-president. So disturbing was the possibility that an election might thus be conducted by a Premier and a Minister of the Interior (see p. 346) from a party not dedicated to the parliamentary system that, despite vigorous Communist and later Gaullist opposition, the rule embodied in the Constitution (Article 11) for "proportional representation of party groups" was thereafter ignored to the extent of not giving the first vice-presidency to the largest group. Henceforth positions were allocated by the conference of presidents of groups (see below) subject to subsequent confirmation by the Assembly.

#### THE GROUPS

The chief subdivisions of the National Assembly are *groups* into which deputies of similar political opinions organize themselves. On the Left these groups generally are made up of members of a single political party—the Communist group, the Socialist group, the Radical Socialist group, the M.R.P. group, and so forth. On the Right, where deputies are more likely to be elected without the support of national party organizations, the deputies organize themselves somewhat more freely. Thus the P.R.L., as an example, first appeared as a par-

liamentary group, later became a national party, and subsequently merged with other conservative parties.

Each group draws up a political declaration for its members to sign, and this declaration and the list of members are filed with the bureau. Groups with at least fourteen members set up a formal organization and choose as its spokesman a president who enjoys special debating privileges. The groups are represented in the Assembly's powerful committees according to their strength (see p. 319). In the Council of Presidents the presidents of groups meet regularly with the presidents of committees and the President and vice-presidents of the Assembly to prepare the National Assembly's order of business, arrange for the number of sittings, and so forth.

## II. THE NATIONAL ASSEMBLY IN ACTION

Constitutional provisions have combined with the peculiar nature of French politics to make the National Assembly a far more powerful body in practice than the House of Commons. In performing each of the traditional functions of a legislature—the making and supporting of a government, the criticism and control of that government, and the shaping of laws—the National Assembly has one great advantage: it controls the Ministry, and the Ministry does not control it. Whether the result is a gain for political responsibility and effectiveness may perhaps be questioned. But the fact that the National Assembly holds the real as well as the formal power of life and death over both the Ministry and its projects constitutes the most effective weapon possible for the enforcement of its will—if only it can decide what that will is.

### *The National Assembly and the Ministry*<sup>2</sup>

It is still common in parliamentary countries to say that the first duty of a legislature is to make and to support a government. In Great

<sup>2</sup> In France the terms "Cabinet" and "Ministry" are practically interchangeable. See p. 326 n.

Britain this statement has lost much of its point, since in ordinary circumstances it is the voters rather than the Members of Parliament who decide which party shall be in power; that is, the members of which party shall constitute the Cabinet. In France, however, the inability of any party to win a majority keeps the voters from having a direct choice; and, although some would question the effectiveness of the Assembly as a supporter of governments, it is still pre-eminently their maker.

#### CHOOSING THE PREMIER

According to the Constitution (Article 45), the President of the Republic designates a potential Premier, but the Premier (his official, but confusing, title is President of the Council of Ministers) may not be formally appointed until he receives a vote of confidence from the National Assembly by a roll-call vote and by an absolute majority of the deputies. Before this vote is taken, he must explain to the National Assembly the policy of the Ministry which he wishes to form, and reply to criticisms and questions.

Few provisions of the new Constitution have been subject to sharper criticism, partly because of the requirement for an absolute majority, and partly because the procedure seems to create an artificial separation between a Premier-designate and his Cabinet. The requirement of an absolute majority, in practice, has seriously handicapped the formation of new governments, particularly in periods of intense political dispute such as occurred at the outbreak of hostilities in Korea, June 1950, at which time France was virtually without a government for 21 days, or when there is a new alignment of parties, as after the election of June 1951. Moreover, on several occasions, the acceptance of a Premier-designate has not been followed by endorsement of his Cabinet (see p. 328). This is hardly surprising for, as has been said, "the presence or absence of certain personages in a cabinet is a fact sometimes more important than the reforms proposed." Thus the provision that the Premier-designate must receive a special vote of confidence before officially forming his Ministry did not make for greater stability of governments, as had been hoped, but,

in fact, offered a threat to the conception that the Cabinet is a collective body.

#### THE ENFORCEMENT OF RESPONSIBILITY

Once in office, the Premier and his ministers are collectively responsible to the National Assembly for the general policy of the Cabinet, and each minister is individually responsible for his personal actions. If ever the National Assembly, by an absolute majority on a roll-call vote, refuses to give a Ministry a vote of confidence for which it asks, or passes a motion of censure, the Ministry must resign. The Constitution, by insisting upon the lapse of one full day before the time when the vote is proposed and the time when it is taken, tries to prevent the fall of a Ministry on a "snap vote" such as was so common under the Third Republic. But the power always exists to discharge the Ministry on twenty-four hours' notice.

Admirers of the British system often advocate the power of dissolution as a means of reinforcing the Cabinet *vis-à-vis* the Assembly, and the Constitution of the Fourth Republic, as has been seen, makes provision for dissolution, though under highly restricted conditions. Only if there have been two ministerial crises (in which the Ministry is forced out by refusal of a vote of confidence or by a vote of censure, and does not simply resign) within eighteen months (with the added provisions, as we have seen, that the rule shall not apply during the first eighteen months following a parliamentary election, and that each of the defeated Ministries must have been in office for more than fifteen days) can the Council of Ministers, after consultation with the President of the Assembly, decide to dissolve the National Assembly. It is then that the Premier must yield his office to the President of the National Assembly; those parties not already represented in the Cabinet receive representation (a major deterrent to the possibility of dissolution since it would bring the Communists into the government, a situation dreaded by the more moderate parties ever since the Communists have been resorting to disruptive tactics); and the Minister of the Interior (who through his control of local officials and electoral mechanisms is in a strategic position to influence the outcome of the new election) must yield his office to a new

appointee. Under the circumstances, the power of dissolution can hardly be considered a serious weapon in the hands of the Ministry. This is the more so because the tradition of dissolution on the defeat of a Cabinet, so strong in Great Britain, has never been established in France. Moreover, so long as an absolute majority is required for a vote of censure or against a vote of confidence, deputies can (and do) abstain so as to prevent the provision for dissolution from becoming operative. No Ministry fell during the Fourth Republic on such a vote, in fact, until that of Bidault on June 24, 1950, when an absolute majority of votes was cast against him on a vote of confidence, and there was no repetition of such action during the first Assembly.

Further, as already noted, there is a decided tendency for decisions regarding the fate of a Ministry to be made at the headquarters of the individual parties. Yet, in the absence of any one party controlling a clear majority of the seats, no Ministry can count upon discipline within a single party, as in Great Britain, to keep it in office. A French Cabinet may have to fight and bargain from day to day in order to hold in line enough different party groups to yield a majority. Moreover, the loose, almost nonexistent discipline in the parties between the M.R.P. and the R.P.F. means that parties by no means have totally replaced the Assembly as the arbiter of ministerial developments.

The task of the Ministry is further complicated by the frequent necessity of fighting a battle on two fronts, against two sets of opponents who are attacking it for quite different reasons. In Great Britain there is only one powerful party in opposition, and the government need address itself only to the attacks coming from that quarter. But in France components of the opposition may very well sit at opposite ends of the chamber, and any concession made to one group may add to the fury of the other. It was not at all unusual, for example, in the winter of 1947-48, to find deputies of the Communist Party and supporters of its most bitter opponent, the R.P.F., voting together in opposition to a government primarily based upon the Socialist Party and the M.R.P., while the poorly disciplined center groups determined its fate. Yet it was inconceivable that if ever the Ministry had been overthrown, the R.P.F. and the Com-

munist could have combined to provide an alternative government.

Thus there may be a very different spirit in the debate in France from that which is typical of Great Britain. The French opposition may talk more irresponsibly because it knows that it will not be asked to make good by assuming the responsibilities of government. The parties which unite in opposing the government may feel no obligation to work out an alternative program. It is for the government to propose and for them to criticize. Where, in Great Britain, government and opposition parties take turns in governing and opposing, France may even have something of a permanent opposition composed of critics who never expect to participate in any government however frequently they help to overthrow it. In contrast, certain strategically placed parties of the Center-left or Center-right may participate in almost every Ministry.

#### QUESTIONS AND INTERPELLATIONS

In comparison with the cross-examination to which the National Assembly subjects members of the Ministry, the questioning procedure of the House of Commons appears almost benevolent.

A distinction is drawn, in the National Assembly, between *questions* and *interpellations*. Questions, which may be oral or written, are intended primarily to elicit information, secure an interpretation of a decree, question an abuse of law, and so forth. Written questions are extremely popular (there were 13,000 of them in the first three years of the National Assembly), and might be still more so if the Ministry were more punctilious about answering them. They are published in the official record of the Assembly, and the ministerial reply is supposed to appear in the official record within a month. Ministers, however, are always free to declare that the public interest prevents them from replying; or they may simply ignore a question, in which case the deputy must ask it again, orally, after an interval. The oral questions, mainly a postwar innovation, are a deliberate attempt to copy British practice, and their usefulness is being increasingly appreciated. Ten oral questions, of which the Ministry has had notification eight days earlier, are taken



up each Friday. At such times, the Minister first gives his reply, which may last five minutes, and then, in contrast to the House of Commons where the questioner is limited to questions and may make neither speeches nor comments, the French questioner may take five minutes to discuss the Minister's reply, though, in practice, he usually does not do so.

The procedure of interpellation, which means a request to a Minister for an explanation of his actions, is considerably more formidable, for it always carries the threat that it may be followed by a condemnation of the Minister and thus of the Cabinet of which he is a member. A deputy who wishes to cross-examine the government on any subject must state the object of his interpellation in writing and submit the statement to the President of the Assembly, who informs both the Ministry and the Assembly, which must agree by majority vote to set a specific date for the interpellation. Several related interpellations may be taken up at the same time.

On the date fixed, both the Premier (or else the Minister concerned) and the interpellator go far beyond the simple asking and answering of questions. The interpellator's speech is closer to an oration than a simple question. It may criticize the Ministry's actions in the past, demand to know its present policy, express suspicions about its future intentions, and tell the Ministry in some detail just what that policy ought to be. The spokesman for the Ministry in replying to the interpellation perhaps clarifies the official policy, perhaps promises modifications, perhaps rejects the attack and denounces the intentions or policies of its sponsor.

The contrast with the British question period (p. 86) is heightened by the fact that there is then a general debate in which all deputies may participate, and then an immediate vote, taking the form of a vote on the motion that the Assembly proceed to the business of the day or, to use the technical phrase, "pass to the order of the day."

If the debate arouses strong feelings, several different motions to this effect may be proposed. One group of deputies may move the order of the day "pure and simple." Supporters of the Ministry, however, may wish a more positive

endorsement of the government's policy and therefore propose a "motivated" resolution: "The National Assembly, after hearing the statements of the Government, expresses its confidence in the Government and, rejecting every addition, passes to the order of the day." Moderate critics may offer a different kind of "motivated" order: "The National Assembly, counting upon the government to remedy the grievances disclosed in the course of the debate, passes to the order of the day." A group which is hostile to the government may propose an order stating that the National Assembly, "condemning the attitude of the government" in certain respects, "passes to the order of the day." Sometimes motions of this sort are three or four paragraphs long, expressing in great detail the sentiments of the Assembly on the matters discussed in the debate and the action which the government ought to take. At this time, a representative of each of the party groups, the interpellator, and a spokesman for the Ministry may discuss the different proposals; and the refusal to grant the Ministry the order of the day which it favors is regarded as a serious sign of lack of confidence.

The procedure of the interpellation is exceptionally elastic. It may be used for a minor administrative issue, to secure enlightenment in a crisis, or for a vigorous debate on an issue of foremost importance. Under the Fourth Republic it has been used to gauge the Assembly's sentiment toward a new Cabinet, either by a direct interpellation on the composition and policies of the Cabinet, which Communist deputies are fond of making, or by the Premier as a "pseudo-question of confidence," which enables him to avoid the technicalities of the vote of confidence yet secure the same assurance—or lack of it. Interpellations have also been a powerful party weapon, used by governing groups as a means of stating a policy, or by opposition groups for the purpose of combating a government program. In the latter circumstance, the interpellation takes on something of the character of a motion of censure in the British Parliament (p. 86). But where the British motion of censure is an extraordinary occasion, generally sought by the opposition party when it wishes to make a well-organized demonstration of its effectiveness by precipitating a full-dress debate

between its leaders and those of the government, interpellation is a regular occurrence and it is instituted by individual deputies. Under the Third Republic individuals like Clemenceau, "the Tiger," were famous for the ferocity of their interpellations.

In consequence, because of their relative frequency, because they lead to an immediate vote, and because of their sponsorship by private members (though usually as a matter of party policy), interpellations provide members of the National Assembly, as individuals, with a more effective weapon of control and criticism than anything possessed by British M.P.'s; and the typical French Ministry, in this as in other respects, is more continuously upon its mettle than the British—a fact which, by diverting ministers from their regular work in order to defend the life of the Ministry, is not always an aid to administrative efficiency. There can be little doubt, however, that the ordinary deputy acquires a greater sense of his personal power and significance and is saved from much of the feeling of helplessness and inferiority which plagues members of other legislative bodies.

### *The Assembly as Legislator*

Lawmaking in the National Assembly is different both in form and in spirit from legislation in the House of Commons. In Great Britain there is seldom any doubt that the Cabinet is in full control of the legislative procedure. Most bills are introduced by Cabinet members, expounded by them, and guided through Parliament by them. In France, however, it is not only easier for a deputy to introduce a bill of his own, but government bills themselves are taken out of the hands of the ministers (bills sponsored by ministers are called *projets de loi*—projected laws—and bills introduced by ordinary members are called *propositions de loi*—proposed laws), modified by the committees (*commissions*<sup>3</sup>) and presented to the National Assembly, not by ministers but by representatives of the committees.

<sup>3</sup> The French use the word *commission* in the sense in which Americans speak of a legislative committee. To avoid confusion about the nature of the institution under discussion, the authors have preferred to use the American term.

In introducing a bill, the texts of projected and proposed laws are first given to the President of the Assembly, who announces their receipt, has them printed, and, in contrast to the British procedure (according to which the critical "second reading debate" precedes the sending of the bill to committee), assigns them to appropriate committees.

### THE WORK OF THE COMMITTEES

In France, committees are looked on as essential instruments for the control of the Ministry. Thus they have a leading role in the control of finance (see p. 322), of the administration, and in the legislative work of the National Assembly, which they dominate to an extent unparalleled in Great Britain and even the United States.

Unlike the British committee system, there is a French committee to deal with each special field of legislation: foreign affairs, finance, agriculture, national defense, economic affairs, the press, overseas territories, national education, justice and legislation, the interior, and so on. There are nineteen of these general, or permanent, committees, each with forty-four members, who represent the different party groups in proportion to their strength, and each committee therefore becomes something of a National Assembly in miniature. No deputy may belong to more than two of them. There are in addition an Accounts Committee of eleven members, which supervises the expenses of the Assembly and, since February 1949, a Committee of Parliamentary Immunity of twenty-two members; both are permanent but not technically General Committees. There may also be Special Committees for specific purposes (like the Committee of Enquiry which investigated the suspected disclosure of military information in 1949). Each committee elects its own *bureau*, consisting of a president, two vice-presidents, and two secretaries.

The General Committees have a free hand in the revising of any bills submitted to them (including those sponsored by the Ministry), and they have been accustomed to take full advantage of their power. At times a Ministry may have greater trouble getting a committee to accept its projects than in getting them passed by the National Assembly itself. Com-

mittees may also draft bills of their own, though here they are at a disadvantage in lacking the expert drafting services of the Council of State (see p. 350) which are available to the Ministry. Ministers and other witnesses—and, when appropriate, spokesmen for the Economic Council and the Assembly of the French Union (pp. 355, 411)—must be heard by the committee; Ministers may also be summoned before a committee (a summons few Ministers would dare to disregard). Under the Third Republic there were complaints that the committees, by voting secretly, were free to act irresponsibly, at times furthering the intrigues of enemies of the government; today, three members of the committee may insist upon a public vote.

The committee appoints a *rapporteur* (reporter) from its members to study each bill and to prepare a report, and such reports have been the pride of the Assembly and the despair of the Ministry. An ambitious young deputy, eager to prove his merit and to make the most of his few hours of prominence, may engage in the most careful research—and since he is concerned with only one bill, the concentrated effort may result in an exhaustive and admirable piece of work. But the temptation to distinguish himself by modifying or mutilating the proposals of the Ministry may also be very great; and although the *rapporteur's* conclusions must win the support of his committee, the government's proposals often undergo serious amendment. The report of the committee is printed and distributed to the Assembly before the debate takes place.

The work of the *rapporteur*, however, is not over; his greatest opportunity to dazzle the Assembly with his eloquence, erudition, wit, and power is at hand. For in France it is the *rapporteur* and not the sponsoring minister or author who opens the debate. The President and other members of the committee occupy a front bench, to the right of that of the Ministry, a distinction which symbolizes the division (and, at times, the opposition) of authority.

#### THE ORDER OF DEBATE

The speech of the *rapporteur* introduces the first part of the debate, which is known as the general discussion. If the nature of the legislation is such as to concern other committees (eco-

nomic legislation, for example, may concern the committees of finance, economic affairs, industrial production, labor and social security, and so forth) advisory reports (*rapports pour avis*) by such committees are given and representatives of those committees share in the debate. It is, of course, quite possible for the committee and the Ministry to be in disagreement, and Ministers may struggle to eliminate the committee's innovations. Both Ministers and members of the committees may speak as often as and whenever they wish. Party groups often designate spokesmen to present their views, and they are given special preference in debate. Ordinary members of the Assembly are recognized in the order in which they have themselves inscribed on the President's list.

At the close of the general discussion the Assembly votes on the question of whether or not it shall "pass to the articles"—that is, consider the articles of the bill in detail. Like the decision on second reading in Great Britain, this vote determines whether or not the Assembly is willing to accept the bill in principle. The report of the particular committee is highly important, however (in form, the vote is on accepting or rejecting its report), and it is common to return the bill to the committee if its verdict on the measure is not approved by the Assembly. If the Assembly votes Yes, the bill is taken up article by article. Detailed amendments may now be proposed, and the National Assembly votes each article individually. Finally, after each article has been considered, the Assembly votes on the bill as a whole.

#### CLOSURE AND URGENT DISCUSSION

Through its normal procedure, the National Assembly is capable of passing bills with great speed, and its legislative action generally compares favorably with that in Great Britain and the United States. Partly for this reason, but more particularly because of differences in the party system and the position of Governments, closure (*la clôture*) means something very different in France than in Britain. In the latter, it is the means whereby the Government puts through its legislative program with the greatest possible despatch consonant with the rights of the minority (see p. 91); in France, it means simply that the majority of the deputies feel

that enough has been said on a given subject and that therefore debate should be terminated. Closure in the Assembly cannot be requested until at least two spokesmen, one for each side, have taken part in the discussions; the decision on closure is then made by majority vote. Thus closure in France is essentially the action of the Assembly itself, not, as in Great Britain, of the government.

Since the early days of the Third Republic there has been, however, a procedure known as Urgent, or Immediate, Discussion which makes it necessary for committee reports to be prepared within three days and provides that debate shall follow immediately and continuously until a decision is reached. This procedure can be instituted by the Ministry, a General Committee, or the proposer of a private member's bill, if it appears that a measure is being unduly held up. But in the first years of the Fourth Republic both the government and private members made such extensive use of urgent procedure that it ceased to be exceptional and became, in fact, normal, while ordinary procedure became no longer operative. New rules, instituted in 1948 and revised in 1950, moderate the practice. Under these rules, the Ministry is potentially in the strongest position: if it wants Urgent Discussion on one of its own bills, it needs only obtain the agreement of the committee, which is given unless an absolute majority of the members of the committee oppose it. To stop a private member's bill from receiving Urgent Discussion is a little more difficult as the Ministry must here secure an absolute majority of the committee in support of this aim. If defeated in committee, the Ministry can still appeal to the Assembly. Thus as long as the Ministry maintains a moderately strong position in the chamber, it can largely control the use of Urgent Discussion. It is symptomatic of the weakness of the Cabinets during the last years of the Assembly elected in 1946 that they had frequently to accept defeat on this issue both in committees and in the Assembly itself. Nonetheless, particularly since 1950, the procedure has come to be used more moderately and in a way conducive to the more effective control by the Ministry of the legislative program.

## VOTING

In the National Assembly votes are taken by a show of hands. In case of doubt, a rising vote is called for, and if the doubt persists, or if an open ballot (*scrutin public*) is demanded, each deputy places in an urn which is handed to him a ballot bearing his name: white if he favors the measure and blue if he is opposed. (Occasionally deputies deliberately stuff the urn with ballots bearing their names, to delay and confuse the counting.) A peculiar feature of the vote by open ballot held in this way is that deputies may vote by proxy; one deputy, in fact, may cast the votes for his whole party (the deputy who performs this task is known as a "postman"). In justification of the practice it is said that the deputy's right to vote is not his personally but belongs to his constituents who have a right to participate in a vote even if their representative is absent.

But since this method of absentee balloting raises some doubts as to the authenticity of the final results, there may also be a *scrutin public* at the tribune, with each deputy coming forward to answer to his name and handing his ballot to a secretary to place in the urn. This form of voting adds significance to the decisions of the Assembly by making personal attendance necessary; because it takes much longer than voting by urn (an hour and three quarters instead of ten minutes), it gives those deputies who are not present when the vote is called time to reach the chamber and cast their vote. The very length of time involved in a *scrutin public* at the tribune, however, makes it an excellent means of obstructionism, and in November 1947 after seven open ballots at the tribune had been called in rapid succession by the Communists, the Standing Rules were hastily changed to ensure that while fifty deputies could still demand a vote at the tribune, deputies from a single party could only make such a demand once during the course of a debate. In *scrutin public*, as the name indicates, the votes of deputies are made public; in *scrutin secret* (secret ballot) used for certain elections (e.g., the President of the Assembly) and in impeachment, individual votes are not published. This fact resulted in the casting of a disconcertingly large number of votes against

the Socialist Cabinet Minister, Moch, in 1949, much to the satisfaction of the Communists who had requested his impeachment.

#### FINANCIAL LEGISLATION

The budget in France, is a *projet de loi*, or series of separate *projets de loi* (there were twenty such laws between January and August 1949), introduced by the Minister of Finance in the same way as any other bill and without any of the excitement which surrounds the Chancellor of the Exchequer's Budget speech in Great Britain. Financial legislation is carefully studied by the Finance Committee, the most powerful of the committees and the only one to have a *rapporteur général*, under whose direction a number of *rapporteurs* analyze individual sections of the budget. Since every important governmental activity, from the conduct of foreign affairs and the maintenance of the army to social security, involves the expenditure of money, the Finance Committee in effect becomes a super-censor of government policy, and it is understandable that some men should prefer a position as president of this committee to that of Minister—although in point of fact it is not unusual for this position to serve as a steppingstone to the Ministry and even, as in the case of Robert Schuman, ultimately to the premiership. Elaborate hearings are held, and the committee often makes substantial changes in the Ministry's proposals. It should be noticed also that, as under the Third Republic, the Constitution assures deputies the right to initiate expenditure in separate bills of their own, but the authority of the Finance Committee ensures that only those proposals it endorses have a real chance to be embodied in law. As may be expected, men who have served on the Finance Committee for a long time acquire exceptional knowledge of the affairs of certain departments and may consider the current ministers little more than bumbling amateurs.

If the committee persists in making changes which the Ministry persists in opposing, a major battle takes place before the Assembly. For example, Premier René Pleven had a hard fight to secure special funds for rearmament at the beginning of 1951, and got them approved only at the price of concessions to the Finance Com-

mittee on the means to be used to raise the money. Thus, in great contrast to the British House of Commons, which has almost no power to modify the recommendations of the Cabinet and which tends, instead, to use the budget debate as an opportunity for criticizing the nonfinancial policy of departments asking for appropriations, the National Assembly retains real financial power.

#### Conclusion

To the person who believes that democracy means active participation in the framing of laws and the making of policy by the people or their representatives, the great advantage of the National Assembly is the extent to which it permits its ordinary members to acquire legislative skill and to participate actively in the framing of legislation. Even in France, however, the growth of party discipline is proving to be a serious restriction upon the independent initiative of the private member; the official spokesmen of the party groups increasingly dominate the debate.

The great problem of the French parliamentary system is how to combine representativeness and skill with responsibility, stability, and effectiveness. In this respect, anything which the foreign observer says is likely to be a counsel of perfection. If the French people were not so deeply divided within themselves, it might be possible to frame a system characterized by a superb combination of freedom, responsiveness, firmness, and order. But the divisions of the French people provide the context within which any government must work, and these divisions are such as to make improbable the formation of a Ministry which is strong, stable, and democratically responsible. Without such a Ministry, unfortunately, the virtues of the Assembly become something of a defect. The very effectiveness of the French Assembly as critic, controller, and legislator weakens the Ministry still further. For a legislative assembly, even one with diligent and intelligent committees, is better fitted to criticize than to construct policy, and the committees themselves, however skilled, see only one part of national policy and are unable to provide leadership in the formula-

tion of a comprehensive and well-integrated program of legislation. In this respect, there is considerable irony in the fact that the parties of the Left, the strongest advocates of a positive government which would undertake sweeping social and economic reform, were also the advocates of a degree of legislative omnipotence which constitutes the greatest obstacle to the achievement of this program.

The greatest danger is that the Assembly will become paralyzed as the result of Communist obstructionism and of the unwillingness for compromise in the interests of effective government which is characteristic of more than the Communists. For the Assembly can maintain its prestige only if it can carry through the legislative program demanded by the times, and if it can restrain the conditions of disorder which all too often have disgraced the Palais Bourbon under the Fourth Republic as under the Third. And even more than under the Third Republic are the actions of the French lower chamber significant, for the concentration of power in the National Assembly by the Constitution of the Fourth Republic means that that body inevitably has the major responsibility for demonstrating the workability of democratic government in France.

### III. THE COUNCIL OF THE REPUBLIC

The Council of the Republic is an institution which almost failed to come into existence. As already noted, the first version of the constitution, which was submitted to French voters in May 1946, contained no provision for a second chamber (see above, p. 267). But the absence of such a body presumably was one of the reasons for the rejection of the constitution in that election.

The Communists, who had been the leading opponents of the idea of a second chamber, finally were willing to compromise on the creation of one which was almost powerless. Once established, however, there has been pressure from both inside and outside the Council to make it a more effective element in the legislative process.

### Composition of the Council

According to the Constitution (Article 6), the Council must be chosen on a territorial basis "by the communal and departmental bodies by universal, indirect suffrage." The first elections in 1946 under a temporary law produced a Council so similar in balance to that of the Assembly that observers declared that rather than being a chamber for reflection, or second thoughts (*une chambre de réflexion*), as it was supposed to be, it was merely a recording chamber (*chambre d'enregistrement*), which would do little but register approval of Assembly decisions. This, in fact, did not prove to be quite true, as the Council tried from the first to assert itself as far as possible within its limited scope. Moreover, the elections of November 1948, held under the new election law (see p. 307), produced a Council of different political complexion from that of the Assembly, and one in which the Gaullist representation produced at times an antigovernmental majority. Nonetheless, though the Council clearly seeks to make maximum use of its powers, it is unlikely that it will achieve an important share in governmental power without amendments to the Constitution.

### Powers of the Council

As established by the Constitution of the Fourth Republic, the Council of the Republic was seriously restricted in its powers. It shares in the election of the President of the Republic (p. 307), but it cannot overthrow a Ministry, and its legislative powers are almost purely advisory. Any bills which members of the Council of the Republic wish to introduce are sent immediately to the National Assembly; and if the National Assembly refuses to consider them, the Council of the Republic itself is not permitted to discuss them. Even this faint shadow of power, finally, is denied in that large category of proposals which involve new expenditures or reduce public revenue: in such cases, the National Assembly is not allowed even to receive the proposals of the councillors of the Republic. Oddly enough, the Council may propose the raising of additional revenue,



though the Senate of the Third Republic was not able to do this.

Bills passed by the National Assembly are sent to the Council of the Republic for its opinion, and this opinion must be rendered within two months. In the case of the budget, the period allowed is that required by the Assembly itself, which may well be more than two months. If a bill is adopted by the Assembly after Urgent Discussion (see p. 321), however, the time may be radically curtailed, though no longer to less than three days (see p. 271). In practice, the Council may request, and has secured, from the Assembly an extension of time for the consideration of a bill.

If the Council of the Republic accepts the bill, or if it renders no opinion within the stated period, the bill automatically becomes law. But if the Council of the Republic disagrees with the National Assembly, the National Assembly must consider the Council's objections, and if it overrules them it must reaffirm the bill as a whole in a roll-call vote and by an absolute majority, if the vote of the Council of the Republic was itself taken this way. However, the National Assembly has every right to stick to the original text of the bill, and the Council of the Republic has no power to force any change. In the words of the Constitution (Article 13), "The National Assembly alone shall vote the laws. It may not delegate this right."

The Council of the Republic also shares to a limited extent (as noted above, p. 270) in the process of constitutional amendment, but here, too, its power is one of delay and it is possible to override its opposition by a two-thirds vote of the Assembly or by a national referendum. In short, all that the Council of the Republic may do under ordinary circumstances and by the exclusive use of its powers is to delay the passage of a law for two months or of a Constitutional Amendment for three months or to force a more difficult process of amendment.

A good deal of criticism of these restrictions has been evident and not only within the Council of the Republic itself. To exclude the Council from original consideration of nonfinancial legislation seems wasteful of the experience of many former Senators, particularly when the agenda of the Assembly is so clogged. But the

attempt of the Council in June 1949, by changing its Standing Orders, to refer bills directly to its own committees before sending them to the Assembly was promptly quashed. There is more support for some kind of "shuttle" between the two chambers to make discussion more profitable, and Herriot has endorsed the use of joint committees. But even those who are most sympathetic toward the Council want effective safeguards against recreating the interminable delays and frustrations which such exchanges led to under the Third Republic. Both the "shuttle" and the use of joint committees were included, it should be noted, in the resolution for constitutional revision which received support at the end of the first Assembly (see p. 271).

The Council has only one potentially powerful legislative weapon which, as already mentioned, is that if the Assembly rejects an amendment by the Council, the former must then re-pass the bill as a whole by an absolute majority if the Council voted its amendments by a similar majority. It is conceivable that the Assembly might have considerable difficulties in producing such a majority, and then the Council would win its way (to make this impossible an amendment which would enable the Assembly to override the Council's objections by a simple majority has already been proposed). It has even been suggested that a Ministry might make the issue one of confidence and that a defeat in the Assembly on such a vote would indirectly be a defeat of the Ministry by the Council of the Republic.

On the whole, the attitude of the Assembly toward the Council has been far from respectful. In June 1947, for example, the Assembly, with two minor exceptions, rejected all of the Council's amendments to its financial legislation without troubling to discuss their merit (an action which brought indignant charges from members of the Council that they were being relegated to the position of a rubber stamp). In December 1948, however, the Council itself acted irresponsibly by rejecting the whole of a finance bill to which it had also voted amendments, and the Assembly, on the advice of the Finance Committee, justifiably re-adopted its own text without even considering the Council's amendments.



Members of the Ministry have been more conciliatory, and have attended and participated in important debates in the Council. They have reaped their reward, for the Council has been co-operative to the extent of agreeing, at the request of the Ministry, to reject a measure passed by the Assembly which the Ministry hoped it could replace with another if given more time in which to attempt to persuade the deputies. In 1949 the Council established the procedure of "oral questions posed to the Ministers with debate," a modified type of interpellation, which necessarily lacked, however, the interpellation's sting of a succeeding vote of approval or condemnation.

The ultimate position of the Council of the Republic is not yet clear. That its members have aspirations is shown not only by the way in which they have made use of what opportunities the Constitution—and the Assembly—allows them, but also by their gesture in voting themselves in December 1948 the title of "Senator," with all the memories which that evokes. Yet unless constitutional amendments

are passed, there seems little the Council of the Republic can do beyond what it has already done.

Thus the effect of the Council of the Republic on legislation rests less upon any power to amend or defeat than upon weight and force of argument. And the Council has already demonstrated that this effect can be considerable. It has made recommendations on hasty or careless legislation and it has made those recommendations in a way which the Assembly could hardly disregard. By calling attention to ill-advised legislation through the eloquence of its members, the Council has been able to attract public attention and permit public opinion to make itself felt during the period of two months in which it can hold up enactment. While this is much less than its members, and many outside observers, would wish for it, the Council of the Republic is at least giving a demonstration of the fact that even a second chamber with very limited powers can exert considerable moral authority.

## CHAPTER 5

# The French Executive

### I. THE COUNCIL OF MINISTERS<sup>1</sup>

#### *The Place of the Executive*

The power of the executive has been a subject of perennial controversy in French politics. Generally speaking, the parties of the Left have habitually looked upon a powerful executive as a threat to democratic institutions, while the parties of the Right have seen in a strong executive the only hope for political order and authority. As a result, the question of the best form of organization has tended to be less important than the issue separating Left from Right, and decisions have been made on the basis of political doctrine rather than of political effectiveness.

In this sense, it must be said that the Constitution of the Fourth Republic represents, in intent at least, a clear victory for the parties of the Left. Authority, as we have seen, has been concentrated in the National Assembly, and it was chiefly because of the weakness of the executive that General de Gaulle opposed the Constitution with such bitterness. Yet even the best constitutional arrangements could not have given the French Cabinet the strength of the British, simply because the British have party government (that is, the Cabinet is made up of leaders of the majority party in the House of Commons) while the French have a government of parties, dependent upon the support

of several different party groups in the National Assembly.<sup>2</sup> Between the singular and the plural of the word "party" lies the difference between two political ways of life.

#### THE MULTI-PARTY CABINET

There is no reason why, in France, as in Great Britain, a Cabinet could not be composed of one party so long as it had the support of enough other parties to hold the confidence of the National Assembly. In fact, the Cabinet of Léon Blum, which bridged the period between the election of the National Assembly in November 1946 and the election of the President of the Republic in January 1947, was made up exclusively of Socialists. Yet this short "Expérience Blum" pointed a double moral. First, it showed that a homogeneous Ministry could provide France with a more vigorous government than any other kind. Where earlier Ministries had been handicapped in both foreign and domestic policy by the need to reconcile the incompatible policies of different parties, the Blum government took prompt and decisive action in both spheres. It opened negotiations for a treaty with Great Britain and instituted a vigorous campaign to reduce prices. Public opinion polls indicated that the Blum government was the most popular which the country had had since the liberation (a particular surprise because the Socialists had lost so heavily in the election), and the prestige of the Socialist Party rose accordingly.

But if the first part of the moral was that a single-party government could act more effectively than a multi-party government, the sec-

<sup>1</sup> As we have observed, "Ministry" and "Cabinet" are almost identical in France. "Ministry" is used when the President of the Republic presides over meetings, and "Cabinet" is used when the President of the Council of Ministers (the Premier) presides. Formal action can be taken only in the Council of Ministers, not in the Cabinet Council. In common practice, however, the two words are used interchangeably.

<sup>2</sup> Quite logically, therefore, General de Gaulle is also the bitter enemy of the party system.

ond was that no other party could allow a rival to act with such effectiveness. The Communists insisted that the next Cabinet must be a government of all parties which were loyal to the Republic, and the next Cabinet included members ranging from the Communists on the extreme Left to the Independent Republicans (but not the P.R.L.) on the far Right. Yet this Ministry was expected to act as a unit so far as general policy was concerned and to accept responsibility to the National Assembly for this policy.

If parties were actually in agreement on general policy, however, there would be no need for separate parties; the life of the multi-party Ministry, therefore, is likely to be a constant struggle in search of a common policy. For any vigorous action is likely to offend one or another of the participating parties (or party organizations), and the "common policy," in consequence, often turns out to be one of inaction or of inadequate, halfway measures. Yet this kind of compromise is inevitable, for where, in a single-party Cabinet, a minority wing of a party might be expected to defer to the majority, the minority in a multi-party Cabinet which consists of a separate group may prefer to leave the Cabinet rather than support a policy of which it disapproves.

### ***Composition and Organization of the Council of Ministers***

The ordinary French Council of Ministers is somewhat larger than a British Cabinet, but the number of its members may fluctuate considerably as certain ministerial departments arise or disappear according to the dictates of political necessity and concepts of governmental organization. Thus in January 1947 a Cabinet of twenty-six headed by Paul Ramadier succeeded a Cabinet of eighteen headed by Léon Blum.

Under the Third Republic the multiplication of Cabinet posts, by adding members as "ministers without portfolio" or subdividing certain positions, was a popular device for winning increased parliamentary support. The larger the number of Cabinet positions, the larger the number of party groups or individuals that could be appeased. In this way, Paul Reynaud in the spring of 1940 bolstered his

parliamentary position by finding places for thirty-five deputies and senators.

The same practice has not been infrequent under the Fourth Republic. When Plevén finally succeeded in forming a cabinet after the elections of 1951, his second Ministry, there were 37 posts in it. Cabinets of thirty or more have been fairly common, partly because of the need to secure enough support for a majority, partly also because of new governmental responsibilities. As in Great Britain, the growth of the government's economic and social activity is reflected in the nature of the Cabinet posts. French ministries, it should be noted, change not only in number but also in name in a way peculiarly confusing to the outside observer, and vary considerably in organization.

The second Plevén Cabinet introduced certain innovations in the organization of ministerial work. Two "super-ministries" were created: René Mayer, Radical Socialist, became Vice-President of the Council and Minister for Finance, and Georges Bidault, M.R.P., became Vice-President of the Council and Minister for National Defense. As head of economic policy in the Cabinet, Mayer had under his supervision the Ministers of the Budget, Industry and Energy, Foreign Economic Relations, and Labor and Social Security, as well as the Secretaries of State for Economic Affairs, Commerce, and Agriculture. Bidault, the co-ordinator of all sectors of national defense, also was entrusted with North Atlantic Treaty affairs. Under his jurisdiction were the Assistant Minister of National Defense, and the Secretaries of State for War, Navy, and the Air.

Thus was initiated an experiment which has long been favored by many of the Socialist leaders, including Léon Blum and Jules Moch, of giving general authority in a large and significant field to a single individual under whom other ministries direct the details of particular segments of that field. In other Cabinets of the Fourth Republic co-ordination and integration had been sought by other means: the direct intervention of the Premier when disputes arose among departments, the use of *ad hoc* inter-ministerial conferences which brought together ministers interested in a particular piece of proposed legislation or a decision which the government was called upon to make, and occa-

sionally the designation of semi-permanent Cabinet committees. In the first Pleven Ministry, the Council of Ministers decided to set up a permanent action committee composed of the ministers of Economic Affairs, Agriculture, and Commerce and Industry to centralize government action on prices. On other issues the Cabinet normally would bring together in informal session those ministers whose agreement was necessary; for example, all those responsible for the preparation of financial and economic policy.

In the second Pleven Cabinet, in addition to those who held posts in national defense and economic affairs, the following appointments were made: two Ministers of State without specific responsibilities to be available for particular assignments and special missions, and Ministers of Foreign Affairs, Justice, Interior, for the Associated States, for France Overseas, Education, Public Works, Merchant Marine, Veterans, Reconstruction, Health, Information, and Post, Telegraph and Telephone.

Among the 37 members of the Cabinet there were 10 *Mouvement Républicain Populaire*, 14 *Rassemblement des Gauches Républicaines*, and 13 Conservatives. As is customary, a high percentage of Cabinet members were drawn from the National Assembly, the Council of the Republic being generally represented by only two or three members under the Fourth Republic, though in the second Pleven government a senator did hold the important Ministry of the Interior. In terms of experience, the members of this Cabinet included seven top members of the civil service, seven lawyers, six industrialists, three doctors, three journalists, two civil servants, two agriculturalists, three professors, two notaries, one engineer, and an expert accountant. The average age of the Ministers was fifty with the youngest member thirty-two and the oldest seventy. Pleven himself was only fifty in 1951, relatively young for the premiership.

In addition to these ministers, various under-secretaries were appointed whose primary duty was to maintain close contact with the committees of parliament, but who did not attend the Council of Ministers except when their special concerns were under consideration.

The government takes official action as the

Council of Ministers, at which time the President of the Republic sits halfway down a long table, and the Premier sits directly opposite him. Ordinarily the Premier dominates the discussion, but it is perfectly possible for the President to take an active part, although he may not vote. The Ministry may meet less formally as the Cabinet Council, with the Premier himself presiding, though this seems less common a practice under the Fourth Republic than under the Third. Fairly frequent, however, are partial or "restricted Council" meetings, at which the Ministers of State and, in the second Pleven Cabinet, the "super-ministers" (who together offer some equivalent to the British "Inner Cabinet") meet with those ministers particularly concerned with special aspects of governmental policy.

#### APPOINTMENT OF MINISTERS

In appointing his Cabinet the French Premier enjoys an authority which in appearance is very great. According to the Constitution the man designated as Premier must first submit himself and his program for the approval of the National Assembly. Once he has received this approval, the Constitution grants him the power to choose his colleagues (although formal appointment is made by the President of the Republic).

This nominal freedom of action is limited, however, by the fact that the Premier's Ministry must receive the support of a majority of the National Assembly, and such support need not automatically follow approval of the Premier and his program. Thus the National Assembly in September 1948 approved Robert Schuman as Premier by 322 votes to 185 but defeated his Ministry within a few days by 295 votes to 289, and in July 1950 approved Henri Queuille by a good margin but defeated his Ministry four days later by 334 votes to 221.

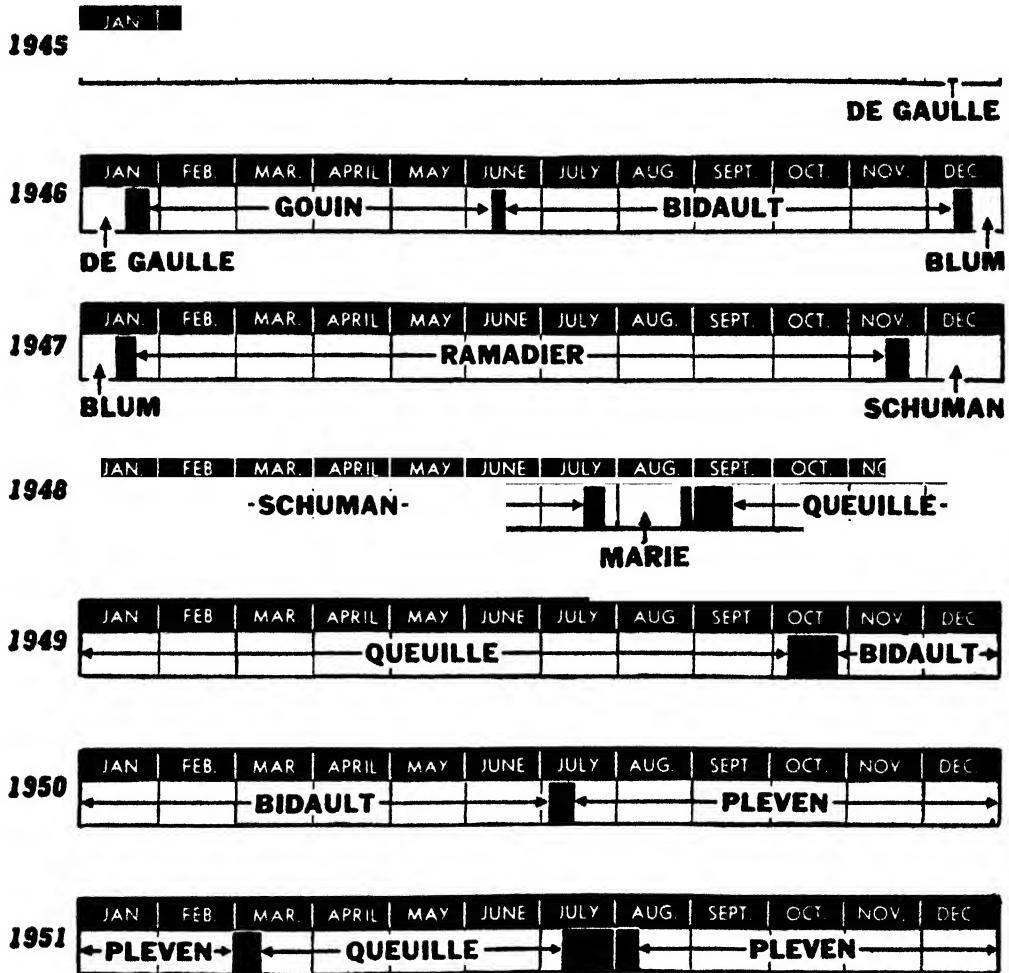
#### *Collective Responsibility of the Council of Ministers*

Some see in the separate investiture of the Premier-designate a threat to the conception that the Council of Ministers is collectively responsible for governmental policy, a conception which is at the heart of the Cabinet system,

and which forms the subject of Article 48 of the Constitution of the Fourth Republic. While this is, perhaps, too extreme a view, it remains true that separate investiture, followed only

themselves in disagreement with the policy of the government on Indo-China. The solution adopted was for the rank and file of the Communist Party in the National Assembly to re-

### THE SHORT LIFE OF FRENCH CABINETS



From the New York Times, by permission.

subsequently by the presentation of the Cabinet, creates an artificial division between the two which in practice has been neither particularly useful nor meaningful.

A far more serious threat to the notion of collective responsibility, arising from the action of the Communist Party in the spring of 1947, resulted in the end in strengthening it. At that time leaders of the Communist Party found

frain from voting, while their leaders continued to sit in the Council of Ministers and to vote for the Cabinet's policies in the National Assembly. Later, however, the Communists in the National Assembly (including the Communist ministers) actually voted against the Cabinet's wage policy. Nevertheless, their leaders refused to resign from the Cabinet. This refusal was not only a major blow to the whole system of

Cabinet solidarity and responsibility; it also enabled the Communists to enjoy the prestige and patronage of government office while profiting from popular discontent with public policy. The Premier, M. Ramadier, accordingly decided upon the expulsion of the Communist ministers, and when they refused to resign, the President of the Republic issued a decree terminating their appointments and appointing new ministers.

A further indication that the Cabinet is a unity and not merely a collection of parties came in February 1950 when the Socialist ministers resigned over the refusal of their colleagues to meet their demands for a cost-of-living bonus. At this time, following M. Ramadier's precedent, the Premier, M. Bidault, did not resign but replaced the Socialists by M.R.P. and Radical Party members.

Nonetheless, the collective responsibility of the Cabinet inevitably causes far greater political complications in France than in Great Britain. Where the typical British Cabinet is composed of members of a single party who have had long experience in working together and who share the same general principles, the typical French Cabinet includes a great variety of parties and opinions. Thus the Cabinet formed by Robert Schuman in November 1947 contained both Socialists who believed in a planned economy and Radical Socialists who believed in free enterprise and *laissez faire*. It was somewhat as though in the United States, Franklin Roosevelt and Herbert Hoover had been members of the same Cabinet and had had to agree to support a common policy. Yet the survival of the Cabinet, in France, depended upon the continued support of both parties. Every policy decision, therefore, entailed a major struggle within the Cabinet.

### **Continuity of Ministers**

Since France is well known as a country where Ministries do not long survive, it is all the more important to point out that there is, in fact, much greater actual continuity both of parties and of individuals in its Cabinets than appears at first glance. As under the Third Republic, *replâtrage* (replastering) is still the way

of making governments. Every Cabinet between 1945 and 1951 had a majority of ministers who had served in the previous Cabinet, except in two necessarily exceptional cases: the all-Socialist minority ministry of M. Blum, which served after the elections of November 1946 when the parties could not agree on a new coalition government, and its immediate successor under M. Ramadier, which repeated the pre-Blum coalition.

There is not only a striking continuity from one Cabinet to its successor; there is also an impressive degree of ministerial and party continuity throughout considerable periods of time. M. Bidault, for example, was Foreign Minister in every Cabinet between September 1944 and July 1948 except that of M. Blum; M. Schuman followed him in this office for the succeeding eight Cabinets. Thus the Foreign Ministry remained in the hands of the M.R.P. throughout this whole period. Similarly, M. Lacoste was Minister of Production in nine successive Cabinets; and M. Moch, also a Socialist, was Minister of Public Works for seven successive Cabinets, and Minister of the Interior in five. The Ministries of Labor and of Industrial Production were shared by the Communists and Socialists until May 1947, when Ramadier reformed his Ministry after the expulsion of the Communists, and thereafter were held by the Socialists until February 1950. Until the same date, the Socialists had a monopoly of the Ministry of the Interior; it then passed to a Radical leader, M. Queuille, whose party had found it a favorite preserve under the Third Republic. The Radicals and Socialists also shared the Ministry of Education.

This continuity is also indicated by these facts: of the sixteen Cabinets between the liberation of Paris and the election of the Assembly in June 1951, M. Moch had been in fourteen, M. Schuman in thirteen, M. Bidault in eleven, M. Teitgen (M.R.P.) in ten, while eighteen others served in six to nine Cabinets. This nucleus of Ministers represents almost equally the four parties which are the bulwark of the constitutional system: the Socialists, the M.R.P., and the Radicals and U.D.S.R. Thus behind the shifts represented by different Cabinets is a core of continuity which goes far to neutralize the

most unfortunate results of Cabinet instability (see chart on p. 329).<sup>8</sup>

### *The Ministry and the Civil Service*

French ministers are even more subject than British ministers to the charge that policy is made, not by them, but by members of the permanent civil service. Because of the instability of Ministries, ministers (even if they have served in several Cabinets) have less time than their British counterparts to become acquainted with their jobs; furthermore, they have to devote a far greater proportion of their time to parliamentary maneuvering.

When a government may be overthrown at any time, and when their help and votes are needed to preserve it, the ministers cannot devote themselves wholeheartedly to the making of long-range plans. Moreover, the qualities which make an effective parliamentarian, under the conditions which prevail in the French National Assembly, are not a particularly good indication of administrative ability. Oratorical brilliance and a talent for repartée are wasted in a position which calls for a patient mastering of technical problems and for an ability to supervise, understand, and direct the work of the permanent staff.

Under the Third Republic the complaint was made that an outgoing minister felt no obligation to inform his successor in any detail of the work in process; and by the time the new minister had mastered things for himself, he too might be replaced. Under such circumstances, decisions would be made haphazardly by the minister, or they would be made by the permanent staff. The only mitigating element was the possibility that the new minister might have had considerable committee experience and might therefore be familiar with the problems of his new position, or that he might bring certain expert advisers with him (p. 345).

The increasingly sharp party divisions and the greatly heightened party discipline may raise a serious question in the future as to whether civil servants who are adherents of one party can be

trusted either to serve the nation disinterestedly or loyally to serve a minister belonging to another party (p. 365). In the decades preceding World War I, when loyalty to the Republic tended to be identified with anticlericalism, the fact that a man went to Mass regularly might be regarded as a reason for refusing him appointment or promotion. Particularly in the army and the schools, there was feeling that it was more important for a man to be a good Republican than an efficient public servant. More recently there has been an extreme reluctance to grant posts in the ministries controlling foreign policy or the armed forces to Communists because of the danger that their first loyalty would be to the Party and perhaps to the Soviet Union.

### *Evaluation of the Council of Ministers*

In judging the French Cabinet system, one must think, not in terms of what might exist under ideal circumstances, but of what is possible in an extremely complicated political context. Certain adjustments, of course, can be made in political institutions. But the deep divisions within France are a political fact which no institutional arrangement can overcome.

France today is a country in which only a multi-party system can be representative. Yet a multi-party system inevitably weakens Cabinet government and hinders the pursuit of any vigorous and effective policy. It could be questioned, of course, whether in a country as divided as France, any vigorous and effective policy would not itself be unrepresentative and therefore undemocratic. Many of the disagreements in a Cabinet arise, however, not simply from conflicts over policy but from interparty rivalry and jealousy, a maneuvering for position, and a fear on the part of one party that another will get the credit or prestige for the successful pursuit of any policy. In this respect, it is significant that the single-party Blum Cabinet (p. 326), even though it was dependent upon the support of several parties in the National Assembly, nonetheless acted more effectively and won more popularity than any of the coalition Cabinets.

Given the unavoidable disadvantages of a multi-party system, and the fact that the system is itself unavoidable in a country like France, the question becomes in large measure one of

<sup>8</sup> Three of these sixteen Cabinets were merely remade and do not technically represent new governments. The chart does not take these three Cabinets into account, nor the two short-lived ones.



whether or not it is desirable to have parties which are highly disciplined. Over this question there can be serious disagreement. Under the Third Republic a Cabinet with ministers representing parties with a parliamentary majority still could not count on the loyalty of that party's members in parliament and might therefore be overthrown. Today, however, a Cabinet which has the support of party leaders—except for less well-disciplined parties like the Radical Socialists—who control a majority of seats in the Assembly can count absolutely upon the support of the National Assembly. But if the leaders of one of these parties decide to withdraw their support, there is small hope of persuading the rank and file to stay on. Thus so long as a Ministry can count on the support of party leaders, it is safer than under the Third Republic; if it lacks this support, it is weaker. And in this sense the struggle for Cabinet stability has moved from the halls of parliament to the headquarters of the individual parties.

## II. THE PREMIER <sup>4</sup>

### *The Premier and the Cabinet*

Those drafting the Constitution of the Fourth Republic had it in mind to make the Premier a real leader on the pattern of the British Prime Minister, an innovation indeed. Under the Third Republic if anyone challenged the statement that the Premier was *primus inter pares* (first among equals) it was to insist that he was not even *primus*. His Cabinet was quite likely to include several men not only of equal but of greater political stature, including the heads of other political parties and former Premiers. The leaders of other parties were not inclined to subordinate their personal or party ambitions in order to contribute to the Premier's success, and they might actively plot against him. Even the

members of his own party might contest his leadership, for it was quite possible for the same party to contain several former and potential Premiers. Thus there was nothing to correspond to the British Cabinet's loyalty to a party leader, and the Premier lacked the prestige which an American President and British Prime Minister enjoy because, in reality, they have been elected by the people and enjoy something of a popular mandate.

Under the Third Republic a Premier, once he was designated by the President, entered upon a round of consultations, interviewing the leaders of other parties and discovering on what terms they would support his government. Some groups would insist upon, or veto, certain policies. Others would demand that their own members be appointed heads of certain ministries. The requirements of different parties might be absolutely contradictory, and the consultations might be complicated by the fact that some party leaders had no authority to commit their party. Yet once the Cabinet was formed it was judged as a unit, and its members stood or fell together.

The provision for separate investiture (Article 45) of the Premier-designate, though, as we have seen, open to criticism in other respects, has done something to concentrate attention on the importance of the position. According to the precedent established by Premier Ramadier, the Premier-designate rises from his own seat, not the ministerial bench, and then mounts the tribune to give, not a collective statement prepared in collaboration with his intended colleagues, but a personal statement of his own program, and when he descends to sit on the ministerial bench, he sits there alone. More important, however, in enhancing the prestige of the Premier is that, in line with the precedent established by Ramadier, he can rearrange the Cabinet and even eject members against their will, adding and transferring ministers, subdividing or combining ministries, and changing the basic political character of the Cabinet.

In other ways, in his relations with other members of the Ministry, the Premier has been given greater strength than was his under the Third Republic. Formerly, Ministers sent their bills directly to the Assembly; all bills must now have the signature of the Premier before being

<sup>4</sup> To the continuing confusion of the foreigner, several officials bear the title of President in France and are addressed as "M. le Président": the President of the Republic, the President of the Council of Ministers, the President of the National Assembly, and the President of the Council of the Republic. A man who has once held any one of these posts often is addressed as "M. le Président" by flattering friends for the rest of his life. To avoid confusion, in these pages the President of the Council of Ministers is called the Premier.

presented. When Ministers sponsor conflicting bills, the Secretary-General (see p. 334) may call on inter-departmental committees to resolve the differences—further evidence that the Premier is looked on as the co-ordinating element within the Cabinet itself. Moreover, again in contrast to the practice under the Third Republic whereby Ministers on their own initiative might call votes of confidence, such votes may now be called only by the Premier (Article 49) and after full Cabinet discussion.

### *The Premier and the Assembly*

The Assembly, of course, retains ultimate control. It can at any time, with the proper warning, pass a motion of censure and force the Premier to resign. Therefore, the Premier, in rearranging his Cabinet, must still be careful not to antagonize those groups whose continued support is essential to a parliamentary majority. Even here, however, if one may judge from the experience of the first Cabinets under the Fourth Republic, the Premier has gained a certain amount of strength.

In the first place, if he can only persuade the leaders of parties constituting a majority to support him, he can face the Assembly with confidence; the tightening of party discipline, in this sense, is a real contribution to ministerial responsibility. So clearly does the life of the Cabinet depend upon party, as distinct from parliamentary, support under such circumstances, that the suggestion that each party participating in a Cabinet should have a Minister of State without portfolio whose function it would be to act as liaison between the Cabinet and party headquarters was finally implemented in the third Queuille Ministry.

In the second place, the Constitution (Articles 49 and 50) reduces the possibility that the Assembly may overthrow a Cabinet heedlessly or without adequate consideration by providing that a vote of confidence or censure may be taken only after the lapse of one full day and by a roll-call vote, and that at these times a Ministry may be defeated only by an absolute majority of the deputies in the Assembly. As a result, the Premier has found it possible, upon occasion, to win approval of legislative projects by labeling them questions of confidence, a device

to which Premier Schuman once resorted five times in a single day in order to win the passage of highly controversial economic proposals. In addition, the Council of the Republic lacks the Assembly's power to overthrow governments; and the Premier need worry, therefore, about the actions of only one legislative chamber. Finally, the Premier's very limited power to dissolve the National Assembly (p. 316) may have some influence upon the members of the National Assembly, since without dissolution they would retain their seats for five years.

### *The Work of the Premier*

The work of the French Premier, for obvious reasons, is much more difficult than that of the British Prime Minister. To a far greater degree is he required to consider competing interests, evaluate the strength of the special pleader, and placate a wide variety of interest groups. Not only must he act as parliamentary leader, but he must try to lead an Assembly in which members of his party are in a minority. Not only must he guide the meetings of the Cabinet, but he must, ordinarily, control a Cabinet which includes the leaders of other political parties. Moreover, the new authority of the party organizations may require him to carry on lengthy negotiations with the executive committees of different parties (including his own). In addition, he signs all decrees, is responsible for the execution of the laws, and nominates all except the highest civil servants (he countersigns the President's nomination of these officials).

Theoretically, one of the most important tasks of the Premier is to co-ordinate the work of the different ministries—a task which is all the more important because the men who head the ministries lack even the community of purpose which membership in the same party gives the British Cabinet. Yet the necessity of carrying on the day-to-day battle in the Assembly and at party headquarters leaves him with far less time than the British Prime Minister. Moreover, under the Third Republic it was customary for the Premier himself to head a ministry, and under the Fourth Republic some Premiers have taken on so great a variety of shifting responsibilities—ranging at times from atomic energy to colonial affairs—that there has been no opportunity, even

with the assistance of a secretariat, for them to devote themselves to problems of long-range and general policy. Indeed, the overwhelming burden placed upon the Premier represents one of the serious weaknesses of the French political system. In recognition of this, both Queuille (in the latter months of his first term of office) and Pleven have refrained from directing a Ministry though Faure revived the practice in 1952.

#### AIDS TO THE PREMIER

One of the most constructive developments under the Fourth Republic has been to provide the Premier with more adequate aid in performing his manifold functions. The Premier had an office, separate from any department, from 1935 on, but prior to the Fourth Republic that office had no precise functions. Now the *General Secretariat*, into which this office has been transformed, is an essential part of the machinery of government, with the responsibility of providing integration at the technical level. The office of Secretary-General is of particular importance because, contrary to French tradition but in line with British practice, this official is present at formal Cabinet meetings, where he keeps the minutes. Moreover, as already pointed out, the Secretary-General works with the Ministries to iron out contradictions in their legislative proposals. Attached to the Secretariat is the *Commissariat Général du Plan* under Monnet (see p. 356), the General Commissariat for Atomic Energy, the Central Office Documentation, and the Civil Service Directorate (see p. 359), enabling the Secretary-General, and thus the Premier, to have valuable information and channels of direction for co-ordination of governmental work.

The General Secretariat is divided into two services—the legislative service and the financial and administrative service—both under the direction of the Secretary-General. The financial and administrative service has some seventy officials who deal with the internal organization of the office. The legislative service, commonly known as the Secretariat and with some twelve members, is the key group for it not only studies and co-ordinates the government's own legislative program, as noted above, but also follows the course of government bills in the Assembly and studies private member bills to see whether

they might adversely affect the government's legislative program. One member is permanently assigned to the Assembly and assists in drawing up its agenda. Thus the Secretariat provides both a clearing house for information and an important means of co-ordinating relations between the executive and the legislature. For the first time in the history of French Cabinets all members of a Ministry are kept constantly and adequately informed on individual legislative measures. In this sense, it is not too much to say that the Secretariat provides the essential institutional basis for transforming the principle of collective responsibility of Cabinets from a constitutional formality into a working reality.

It must be remembered, also, that the Premier, like all other Ministers, has a small group of intimate political advisers (known somewhat confusingly as his political cabinet) who assist him by gathering information, acting as liaison with the regular departmental officials, and, in general, serving in whatever way seems necessary. This political group is quite separate from the General Secretariat, and serves only a particular Premier, whereas the General Secretariat is a permanent office which provides a degree of experience and continuity of particular importance in France.

#### Personality of the Premier

It is even harder to make generalizations about the personality of French Premiers than of British Prime Ministers or American Presidents. One thing is clear: great French Premiers, like Clemenceau, Poincaré, and Briand, who have been distinguished for their uncommonly long terms of office, maintained their positions by virtue of their personalities and not by virtue of party leadership. Undoubtedly they stamped their administrations with their own characteristic approach to issues. Yet far more frequently, a gift for compromise is more important to a French Premier than either a clear-cut program or the determination to put it into effect. The Premier must appeal to many parties at once; most likely he must also reckon with the presence within his Cabinet of men who have been Premier before him, and under whom he may subsequently serve. He must be a con-

ciliator and co-ordinator, able to keep his program to the fore without unduly antagonizing those whose ideas are somewhat different. He must command trust, and, if possible, friendship among wide groups. He must, of course, be unassailably Republican. What is needed, in short, is a man who is keen, suave, a compromiser of wills, a man who can bring agreement not only within the Ministry but within the National Assembly as well. And while he must be rugged enough, in health and temperament, to stand the constant battle, he must also have the stamina to accept dismissal from office at a moment's notice.

It is not without significance that during the Assembly that was elected in 1946 the one man able to remain Premier for more than a year was Henri Queuille, a country doctor who infused the Assembly, and the country, with some of the same confidence which he imparted to his patients. A deputy for more than thirty years, he had also been a member of more than twenty Cabinets. Long at home in the right wing of the Radical Socialist party, Queuille was well known for his moderation and liberalism. At the same time, he courageously and successfully (with the aid of Moch, Socialist Minister of the Interior) tackled the problem of strikes by the *Confédération Générale du Travail*. A recognized master of conciliation, the Radical Socialist leader showed remarkable talent in his Cabinet and in the Assembly for avoiding the issues on which parties were clearly split and for pressing ahead on those programs over which there was least disagreement: "You can't avoid living together" was his theme. And it is worth noting that during his Ministry, France made marked progress in recovery.

### III. THE PRESIDENT OF THE REPUBLIC

#### *The Position of the President*

Under the Third Republic the President of France acted as something of a nonhereditary constitutional monarch. He was a dignified head of state, who could preside on ceremonial occasions, who stood above party, and who did not engage in partisan political activity. If there had been any doubt on this score, the rebuke

given to Marshal MacMahon in 1877 (p. 256) or the forced resignation of President Millerand in 1924 for similar partisanship would have settled the matter.

Very seldom was there any danger that such rebukes might be necessary. After the sad experience with the third Napoleon, Republicans were careful to see that no President should enjoy the prestige of popular election; and after the MacMahon crisis they took care, in addition, to choose men who were colorless, reliably Republican, and possessed of little popular appeal. Clemenceau's advice to "vote for the most stupid" may have overstated the matter, but of all the Presidents of the Third Republic, only Poincaré could be considered a statesman of the first rank. Men of the prominence and ability of Clemenceau and Briand were regularly rejected.

As a result, the prestige of the French President stood much lower than that of the British King. He excited none of the magical reverence attached to the descendant of generations of kings, and his personal abilities were not such as to command great respect. Much of his work was (and is) purely ceremonial. He presided at official functions, received ambassadors, and represented the nation at diplomatic affairs and at ceremonies of all sorts throughout the country. Like the King in Great Britain, he was expected to lay cornerstones, open exhibitions, inspect hospitals and schools and housing projects, attend peasant festivals, and tour the French Empire as a symbol of the interest of the nation in its overseas possessions. At all times, he was (and is) expected to be good-humored, kindly, affable, gracious and patient.

#### POWERS OF THE PRESIDENT

Yet in certain respects the President of the Republic, both in the past and even more under the Fourth Republic, is provided with far greater opportunity for exerting influence than is the British King. Where the British King ceased to attend Cabinet meetings more than two centuries ago, the President presides at meetings of the Council of Ministers and has the right to participate in discussions (although he may not vote). The Constitution of the Fourth Republic not only stipulates (Article 32) that the President "shall preside over the

Council of Ministers" (in practice, as already pointed out, the Council of Ministers now discusses many issues of policy instead of restricting itself mainly to formal action, as under the Third Republic), but by stating also that "He shall order the minutes of their meetings to be recorded and shall keep them in his possession" it provides him with a source of uncontroversial information which gives his opinion unusual weight. It is of considerable significance that when for the first time records were made of Cabinet meetings, the President of the Republic should be their custodian; the frequent use which President Auriol has made of these records to keep Cabinets aware of earlier Cabinet deliberations is perhaps even more significant. Moreover, although the Premier and other ministers do not need to take his advice, the President may have considerable personal influence—depending on his personality, and that of the Premier. Since, unlike the British King, the President ordinarily has participated in the give and take of parliamentary politics, his advice often stems from a depth of experience that encourages acceptance.

The President's most important power, however, is the designating of the Premier, subject to the approval of the National Assembly.

In Great Britain, of course, the appointment of the Prime Minister by the King is largely a matter of form, since the leader of the majority party in the House of Commons always receives this appointment. In the National Assembly, however, there has been no such majority party, and the President therefore enjoys a certain discretion, for it is quite possible that the Assembly would be willing to accept any one of several men as Premier and that several different types of majority might be found to support him.

It might be possible, for example, to form an all-party government, including representatives of every party; a coalition based upon the Leftist parties; a coalition including Left and Center; a coalition including the Center and Right; and a coalition based upon the Right. It is sometimes possible to entrust the government to a single party, with the understanding that enough other parties will support it to give it a majority in the Assembly. Moreover, in making his choice, the President (unlike the

King of Great Britain) is not restricted to members of parliament, although it is unlikely that the National Assembly would be willing to support anyone outside their own membership, with the possible exception of De Gaulle. Within limits, however, the President may exercise his own judgment as to what individual and group of parties are best suited to a particular situation.

Within an hour of the time a Ministry resigns or falls, the President begins consultations looking towards the appointment of a new Premier. This means that he consults the leaders of all the parties in turn, the heads of the various parliamentary groups, and often the representatives of the most prominent interest groups. Only after he has learned the designs and aspirations of each group, what kind of government each would be willing to support, and what concessions (in terms of appointments and program) each expects, can the President proceed to conversations with prospective premiers to sound out their views. Occasionally these informal conversations result in refusals; the President may have to use all his powers of persuasion before the reluctant candidate accepts the task of trying to win the approval of the Assembly. Or the Assembly may reject one candidate after another, as happened after the election of June 1951, and then the President must try all over again. If he is lucky, he may merely spend a busy morning; it is more likely that he will spend several days, even several weeks, in negotiations.

As an illustration of the procedure, when President Auriol, the first President under the Constitution of the Fourth Republic, began his consultations the morning after his election, he received first of all the secretary-general of the Communist Party and the president of its parliamentary group; next he received the secretary-general of the M.R.P. and the president of its parliamentary group; next the secretary-general of the Socialist Party and the presidents of its groups in both the Assembly and the Council of the Republic; next a delegation of four leaders of the Radical Socialist Party; next the leaders of the P.R.L. and the right-wing "Independents"; next the president of the U.D.S.R.; then a member of the Musulman group from Algeria; and finally a representative of the Re-

publican and Resistant Union (a small group allied with the Communist Party). It was significant of the importance of the party organizations that, in the case of the large and well-disciplined parties, the President interviewed not only the heads of their parliamentary delegations but also the leaders of the party organization outside parliament. Technically the Ministry would be responsible only to the National Assembly, but it was clear that these extraparlimentary organizations would determine its fate. At the conclusion of these interviews, Auriol was ready to designate his candidate for the premiership and to advise him about the policies and the distribution of ministerial posts which would probably win the support of the National Assembly.

The President of the Republic has numerous formal powers which also, as President Auriol demonstrated, provide him with opportunities for wielding influence. The President not only presides over the Council of Ministers, but also over the High Council of the French Union, the Committee of National Defense, the Constitutional Committee (see p. 270), and the Superior Council of the Judiciary (see p. 380). He is, *ex officio*, President of the French Union (p. 410) and, as such, convokes the Assembly of the Union; President Auriol established the precedent of coming in person to read his presidential message at its first session on December 10, 1947. As President of the Republic, Auriol also used the opportunities afforded by numerous formal functions, like the opening of exhibitions, celebration of anniversaries, and so forth to point out the need for civic spirit, and for unified efforts in support of reconstruction.

The President appoints members of the Council of State, ambassadors, members of the Superior Council and the Committee of National Defense, prefects, and other officials. He must be kept informed of international negotiations (although he does not participate in them), he signs all treaties, and he has the title of Commander-in-Chief of the armed forces, although he has no direct control. It is his duty to promulgate laws within ten days of their passage by the National Assembly (or, if the National Assembly declares an emergency, within five days). Before this period elapses, he may, in a message stating his reasons, ask that the

law be reconsidered by both chambers (President Auriol did so several times during the first Assembly, each time because of a technical problem, and on no occasion because of divergence in policy), and this request cannot be refused. And, under appropriate conditions (p. 316) he decrees the dissolution of the National Assembly. Though, according to Article 38 of the Constitution, every act of the President must be countersigned by the Premier and one other Minister, President Auriol himself decided that in exercising the right of pardon no countersignature was necessary, and this interpretation has not been challenged. In general, however, despite this impressive list of functions, the President, like the British King, has in practice little personal authority.

There is, however, one sense in which he may play a somewhat greater personal role. During the debates on the new Constitution, the President was referred to as "the guardian of the Constitution," and particularly during the critical winter of 1947-48 there was a tendency for various groups (including the Communist Party itself) to appeal to the President in this capacity to intervene in various economic and political disputes.

In general, President Auriol, whose acts as first President under the new Constitution have great significance in setting precedents, refused to intervene in such controversies. However, when leaders of the R.P.F. insisted, following the local elections of the autumn of 1947, that the National Assembly had lost its popular mandate and should make use of Article 6 of the Constitution (which permitted the duration of the Assembly's powers and the manner of its election to be determined by a simple law) to dissolve itself and call new elections, President Auriol announced that the National Assembly was perfectly legitimate and was entitled, according to law, to serve out the term to which it had been elected.

Under very different circumstances, President Auriol intervened twice, in November 1950 and April 1951, to persuade a Cabinet to stay in office in the interest of governmental stability. On the first occasion, the Plevin Ministry had been trapped in a Communist maneuver aimed at impeaching one of its ministers; Auriol refused to accept the resignation on the ground

that the vote had not been by the absolute majority required by the Constitution. During the third Queuille Ministry, when its project for electoral reform was apparently doomed and the Cabinet was ready to resign, Auriol supported a procedural decision by the President of the Assembly which gave both electoral reform and the Cabinet another chance.

To this extent, the President has been ready to actively support governmental stability and the Constitution. While some analogy can be drawn to the action of the King in promoting formation of the National Government in Great Britain in 1931 (see p. 126), occasions for such intervention are infinitely more rare in Great Britain than in France. In the latter country, it may be of profound importance that the President interprets his obligation to refrain from political partisanship as one which prevents his participation in ordinary disputes but does not prevent him from acting when the security of the Republic and Constitution are involved, or even the stability of particular administrations. If all parties in France were com-

pletely loyal to the existing form of constitutional democracy (as are the major British parties), there would be little reason for the President to assume such responsibilities. There is, however, the possibility that, given the situation in France in which both the extreme Left and the extreme Right are unsympathetic, if not opposed, to the existing constitutional system, the President under certain circumstances might be forced into an anomalous situation. For though, in principle, his action might be taken to preserve constitutional stability apart from any consideration of party, in practice his action would help certain parties and hurt others. It might even be argued that President Auriol's reply to the leaders of the *Rassemblement du Peuple Français* in 1947 aligned him with the "Third Force" (p. 296) as against the extremes. It is at least conceivable that in a country so badly divided as France, the President's duties as non-partisan defender of the Constitution might (and should) actually force him to become a partisan.



## CHAPTER 6

# The National Administration of France

### I. THE GROWTH OF PUBLIC RESPONSIBILITIES

Government activities are as extensive in France as in Great Britain but they have developed in a different way. For one thing, the French public administration has always been much more strongly centralized than the British public administration. Moreover, in France new governmental functions generally have been introduced at the national level, instead of appearing first at the local level as has been more common in Great Britain.

Yet social and economic services, which have given the British national administration so pervasive an influence in everyday life, developed more slowly in France, largely because the Industrial Revolution came later than in Great Britain, and was never so extensive. Thus France took much longer than Great Britain to accept the necessity of the "service" or "welfare" state.

#### *Establishing Social and Labor Standards*

Social welfare measures, and in particular labor legislation, were long opposed, in fact, on the ground that state-enforced social duties might interfere with the free expression of individuality and with long-established traditions. Child labor was not curbed until 1874, and another decade passed before trade unions were recognized. Only about this time did factory inspection begin, and compensation for industrial accidents was not introduced until the turn of the century. The six-day working week was assured in 1906, the eight-hour day established after World War I, and nightwork for women

and children forbidden in 1928. But many of these measures were much criticized. Collective bargaining and even trade union membership were still opposed bitterly by many industrialists on the eve of World War II.

In the field of social security, too, legislation prior to 1930 was piecemeal, haphazard, and inadequate. Retirement pension systems had been organized for government workers, railroad labor, and miners, but the general provisions for old-age pensions, which had been instituted in 1910, were so poor as to be a complete failure. Unemployment relief and employment exchanges had been organized on a local basis but with widely varying results.

#### COMPREHENSIVE SOCIAL SECURITY

In 1930 France adopted its first comprehensive plan for social security, including provisions for old age, sickness, disability, and maternity. Family allowances were added in 1932. Nevertheless, not until the Popular Front government (p. 258) came to power in 1936 did social security receive its full application; benefits were then increased and a greater portion of the population added to the social security rolls. As a result, social security in France on the eve of World War II extended to all employed persons of either sex with an income below a certain level (for those above that level of income, the plan was voluntary) and provided allowances for dependent children. Retirement annuities could be claimed by any worker of sixty who had had thirty years of employment, and lump sums were paid to his widow or dependent children if he died before that age. In case of illness, the state paid for medical and hospital care along with a daily

allowance varying according to the number of dependents. Free medical assistance was also given to women before and after pregnancy.

These comparatively generous provisions did not meet all of the needs of the unemployed, however, for a person out of work did not begin to enjoy his insurance rights (which were guaranteed for only a six-month term) until fifty days of involuntary unemployment had elapsed. The only other aid he received was through local poor relief, subsidized by grants-in-aid from the central government but unequal in application in different parts of the country and generally poorly administered.

#### RIGHTS FOR LABOR

The strain of the depression and the growth of unemployment (previously almost unknown in France) had been major factors in bringing the Popular Front government into power in 1936; accordingly, along with its program of extending social welfare measures, it introduced measures designed to prevent unemployment and at the same time to improve the condition of the working class. Between June and December 1936 it established many new rights for labor, including the forty-hour week (introduced gradually and, in part, as a way of distributing employment more widely), two-week vacations with pay, and a simplified but compulsory procedure of collective bargaining as an answer to the nation-wide "sit-down" strikes of May 1936. Partly through these means, labor and management were persuaded to compromise their differences in the "Matignon Agreement" according to which, in return for calling off the strikes, labor received assurances (subsequently embodied in the law governing collective wage agreements) of complete freedom to organize, to elect shop councils, and shop stewards, and to establish minimum wages by regions or occupations.

But this high point of achievement was not maintained. The new labor arbitration laws tended to weaken rather than support bargaining power. The Popular Front disintegrated, and the labor movement split over Nazi appeasement. In 1939 the office of shop steward was suspended and, under Vichy, was done away with altogether, along with the right of

association and other independent rights of labor.

#### NEW OBJECTIVES

When France was liberated the first moves in favor of labor were attempts to restore former conditions by annulling the Vichy Labor Charter (p. 265) and reviving the rights of trade unions. Indeed, France under the Fourth Republic has gone much further both in social security and labor legislation than might have been expected from the bitter controversies on these subjects in the inter-war period. When the Minister of Labor declared, apropos of the new social security legislation of 1945 and 1946, that "the governing principle in the modern state is to protect individuals in those circumstances in which illness or material need finds them unprepared to meet the costs," and added that "very often the misfortunes of citizens originate in the fact that they are part of a community, and as such, this community ought to give them the minimum care," he was expressing views which have long been current in Great Britain but which had not previously been accepted commonly in France. It is true that France has not yet accepted officially the British policy of establishing a national minimum standard of living (p. 195). But the French government has accepted the responsibility of protecting its citizens from the more serious effects of economic dislocations, and in fact is assuming steadily increasing responsibilities for ensuring their general well-being.

#### *The State in Economic Life*

Rather surprisingly, governmental responsibilities for ensuring the operation of important sections of the French economy were accepted at a somewhat earlier date than public responsibilities for social welfare. One reason for this is that the French are not opposed in principle to state intervention or control in economic matters, though they have in the past expressed fear that social welfare legislation might inhibit free individual expression. Moreover, the centralization of the government facilitates such action, and French industry, in part because it is younger and less powerful, has offered less opposition to public ownership than British or

American industry. As a result, the French undertook a number of rather unusual ventures in state ownership under the Third Republic, as well as some interesting projects in joint public and private control in certain fields.

#### STATE MONOPOLIES

To an American, the strangest form of state economic activity in France is the manufacture and sale of certain products by the State Manufacturing Service (a semiautonomous branch of the Ministry of Finance) for the purpose of making money for the state. The tobacco monopoly was first established in 1678 (abolished in 1791 and re-established in 1810) and since 1927 has been supervised by the autonomous Amortization Fund Service, which uses its profits to reduce the public debt and pay the interest on national defense bonds. The manufacture of matches, another monopoly, has been operated directly by the government since 1889. The Ministry of War runs the gunpowder monopoly. The state also has controlled since 1926 the importation and domestic sale of industrial alcohol, though it has left manufacture in private hands. Telephones and telegraph are under the Ministry of Post, Telegraph, and Telephone (commonly known as P.T.T.).

#### THE "MIXED" CORPORATION

Less unusual was the acceptance of governmental responsibilities in fields like broadcasting, civil aviation, shipping, water-power development, and railroads. The most distinctive features of this development under the Third Republic were the side-by-side existence of public and private ownership in these fields, and the extended use for the direction of public economic activities of the "*mixed*" corporation directed by a board representing both private and government stockholders. In the "*compagnie nationale*," the most common form, the "mixed" corporation was a means of securing government direction and subsidizing of private activity.

However, state control was extended rather hesitatingly under the Third Republic and usually only as a result of the economic difficulties of private enterprise. This is well illustrated in the case of the railroads, over which there was more state control on the eve of World War II

than in any other field. Initially state aid was extended to secure railroad development. Public supervision followed, however, and by the end of World War I rates and finances were controlled by the Minister of Public Works. Moreover, various lines which were incapable of making a profit (notably those in Normandy and Brittany) had been taken over at the turn of the century, and to these were added the Alsace-Lorraine lines when those provinces were recovered from Germany in 1919. In the inter-war period, private railroad lines were given substantial state aid and direction in the hope of keeping them solvent, but by 1937 their operating deficits, which were met by the French Treasury, reached such high figures as to make nationalization almost inevitable. In January 1938 all the private railroad systems were merged into one railroad company, organized as a "mixed" corporation. The state held a controlling share of the stock; in return for their assets, the private companies received 49 per cent of the stock and a guaranteed dividend on their stocks and bonds. Labor was given a small share in management. The financial arrangement was to terminate in forty-four years, after which the state would have full ownership of the railroads without further compensation.

In radio and aviation, public and private interests also existed side by side. The Ministry of P.T.T. established the first broadcasting station in France in 1922 and later set up a number of regional stations. At the same time, however, private companies were allowed to enter the field, and despite various plans for buying them out, there were thirteen nongovernmental stations broadcasting by 1936. Civil aviation was in private hands prior to World War II, but maritime aviation was placed under the "mixed" corporation, *la Compagnie Air-France*, in 1933. Moreover, the Popular Front government, on the contention that civil and military aircraft were closely connected, brought all concerns manufacturing airplanes under semi-autonomous "mixed" companies in 1936 as part of its program for nationalizing the armaments industry.

#### THE NEED FOR ECONOMIC REFORM

This rather unsystematic series of governmental moves in the economic sphere reflected

the division of opinion in France regarding the best way of handling the country's economic problems. Never so highly or efficiently industrialized as Great Britain or the United States, and handicapped by its lack of oil, its deficiency in coal, and its need for manpower, France had fallen behind in the race for production long before the outbreak of World War II. The French farmer had proved incapable of competing on even terms with farmers in the New World, and the tariff protection which made survival possible had done little to increase agricultural production. Moreover, the traditional "individualism" of the French farmer and of the small entrepreneur in industry, coupled with their political predominance, had made extremely difficult introduction of highly rationalized techniques in either sphere. In the face of these problems, the Right had supported the interests of big business and had urged the protection of domestic production, if necessary by subsidies, and opposed social legislation as a restriction on employers and too heavy a drain on the budget. The Left, in contrast, had attacked large-scale capitalistic enterprise and the principle of *laissez faire* and had favored an extensive social welfare program and state control of economic affairs.

Throughout the thirties, there was, in fact, an epidemic of plans for meeting France's economic difficulties. Most of them accepted the slogan "neither capitalism nor communism" and aimed at a compromise under which a "planned sector" of the economy would exist side by side with a "free sector." During the occupation these plans crystallized into the notion that *nationalization* was the proper form of organization for the planned sector and that it should include important portions of the economy. As a result, all resistance groups united in the winter of 1944 in a program which foresaw "the taking over by the nation of the fundamental methods of exchange and of production, and the sharing by the working-class masses in the conduct of the nation's economy." Following the return of the government to France, nationalization became the first major tool for achieving economic reform and reconstruction.

#### NATIONALIZATION

The French postwar drive for nationalization was motivated less by the desire to continue prewar experiments than by the belief that only public ownership of the most important sectors of the economy would insure their proper use for the reconstruction of the nation; at the same time, it represented only the most recent expression of the long-standing demand of the French Left for socialization of the economy. The National Council of Resistance (p. 266), which included representatives of labor and of the three largest political parties (the Communists, Socialists, and *Mouvement Républicain Populaire*) had demanded the destruction of the great "feudal" trusts, the confiscation of enterprises belonging to collaborationists, and the inauguration of a planned economy; and until the spring of 1947 (under what was called the regime of Tripartism) these three parties dominated the coalition government which ruled France. General de Gaulle, head of the Provisional Government, was less enthusiastic in his support of nationalization and planning; but even he spoke of the necessity for a mixed economy containing an important nationalized sector.

But if there was general agreement, in the first months following the liberation, on the need for at least a measure of nationalization, there was little agreement on what particular industries and services should be nationalized and no clear-cut program comparable to that put forward by the British Labor Party. Thus the French nationalization program has been more empirical than the British, and also more varied; the British have gone further in the nationalization of their inland transport, for example, but they have nothing comparable to the partial nationalization of banking and insurance in France. In general, British nationalization legislation has been more monopolistic than the French; that is, where nationalization took place, it tended in Great Britain to cover the whole of the activity, whereas in France, action was more likely to affect only the largest companies in a particular field.

So long as General de Gaulle was head of the Provisional Government nationalization was limited to spheres where government influence

was far advanced already and where further state control could have relatively few repercussions. Setting "a collective effort towards increasing production" as the goal, De Gaulle declared, "We do not contemplate the French economy of the future developing without a 'free sector' as wide as possible, but just for that reason we insist that the State should keep the instruments of control in its own hands."

In conformity with this conception, five nationalization projects were undertaken during the year from December 1944 to December 1945: the coal mines in the north of France, comprising about two-thirds of those in the country; the Renault automobile works; the *Gnome et Rhône* airplane motor company;<sup>1</sup> the principal airlines; and, most important of all, the greater part of banking and credit.

When De Gaulle was succeeded in January 1946 as President of the Provisional Government by Félix Gouin, a Socialist, an extended program was launched which added to the objective of national efficiency a political consideration: to deprive private interests of the means of blocking the general economic program of the government. With these aims, the government devoted the spring of 1946 to completing and extending the measures introduced under De Gaulle. The result was full nationalization of the coal mines (with minor exceptions), of the producers of gas and electricity (except for the natural gas industry and small gas works and electrical companies), and of the thirty-four largest insurance companies, representing about 68 per cent of the premiums paid in France. In addition, the rules governing the Bank of France were extended to the Bank of Algeria. (This Assembly also transferred to a national company the assets and property of newspapers which had appeared during the Occupation, see p. 249.) Thus about half the program of nationalization of "key industries and credit," which the Resistance movement had demanded, became public policy, and the government became solely responsible for the oper-

ations of these major parts of the economy. This marked the conclusion of the program of outright nationalization. When the airlines and the two largest maritime shipping companies were brought under more public control early in 1948, it was through the earlier form of mixed companies in which private interests had a share.

### Economic Planning

Nationalization is not the only means through which the French government is now organizing and directing the economy. Even more obviously than Great Britain has France accepted the belief that general economic planning is essential for a more rational organization and development of industry.

Prior to the Fourth Republic, rather tentative and halfhearted efforts had been made in the direction of economic planning, mainly through the establishment in 1925 of the *National Economic Council*, which brought together representatives of industry, farm groups, and so forth (who worked through sections composed of equal numbers "of employers and of intellectual and manual workers") and was advisory to the Premier. The National Economic Council was supposed to survey public economic projects and to draft long-range economic plans. In the course of its history it undertook comprehensive surveys of France's national resources (somewhat as the American National Resources Planning Board did) and analyzed the capacity of different branches of the economy and their interrelation. At least some of its reports formed the basis for legislation, e.g., in housing, transport, labor, and social reform. But the National Economic Council never possessed constitutional status nor exercised any power. Its abolishment by the Vichy regime was not a major loss.

The pressure of wartime conditions made it necessary, however, to establish a body which could deal with economic questions in a coordinated and effective way. The French Committee of National Liberation, for instance, was forced to establish a central economic organization in North Africa in order to draw up its list of requirements for Allied aid, and to centralize its control over available French assets. Accordingly, in April 1944 an economic com-

<sup>1</sup> Both the Renault plant and the *Gnome et Rhône* airplane motor company had collaborated with the Nazis. Moreover, both were important sources of supply; the government was the only customer of the airplane motor company and also bought extensively from the Renault plant. The punitive motive for nationalization did not exist at all in Great Britain.

mittee was set up (composed of De Gaulle and the commissioners concerned with economic questions) which made day-to-day decisions on economic problems.

Equally pressing was the situation confronting France after the liberation. Not only were there gigantic short-range difficulties arising out of the devastation caused by the fighting but also serious long-range problems both in agriculture and industry. France's dominant need was efficient production; otherwise there seemed little hope that France could hope even ultimately to meet the everyday needs of its people, let alone re-establish an important place on the world market.

In the face of this crisis, France adopted far more definite means for economic planning than under the Third Republic. An *Economic Council* (p. 355), set up under the Constitution of the Fourth Republic, was given the right to advise on all economic legislation (except the budget) and on the national economic plan. Even more significant—especially since the Economic Council seems likely to be little more than “an Academic Council of the French economy”—was the establishment early in 1946 of a *Planning Council*. This council was made responsible for producing a plan to “increase production; increase foreign trade, especially in those industries in which France holds a favorable advantage; increase the rate of production to the level of the highest competing countries; provide full employment; raise the level of living; and provide for reconstruction of public and private equipment damaged or destroyed by the war.” The result was the *Monnet Plan*, the most ambitious attempt by a democracy at a comprehensive plan for economic development.<sup>2</sup>

Thus the French government has been vested with wide responsibility and substantial power for the operation of the whole economy. Like Great Britain, France faces the crucial problem of whether nationalization and economic planning can be combined successfully with individual liberty. In some respects, because of the traditional instability of Cabinets and the greater suddenness with which France has confronted its economic crisis, it may seem less well

prepared than Great Britain to solve this problem successfully. Yet no final answer can be given without a more careful analysis of the machinery of public administration in France and of the public servants who are entrusted with its operations.

## II. THE ORGANIZATION OF THE PUBLIC ADMINISTRATION

As the French government has entered new fields and has become the major director of the economy, there has been a parallel growth in government agencies, in the number of people they employ, and in the size of their budgets. Thus during the course of the Third Republic the number of national government employees rose from 200,000 to 800,000. And the Finance Minister in 1946 estimated, even with allowance for the difference in prices, that that year's budget, which totaled 30 per cent of the national income, was a “real burden” three times that of 1913. Thus the public administration in France, as in Great Britain and in the United States, has become by far the largest single concern in the country.

### *The Basic Units: The Ministries*

As in Great Britain, the basic units and centers of power in the French national administration are the ministries. Prior to World War II the ministries directed and correlated the work of almost all governmental agencies in their respective fields, both at the national and the local level. Under the Fourth Republic a considerable amount of autonomy has been granted to national administrative bodies outside the ministerial structure, in particular those bodies directing portions of the national economy, but with this exception, practically all the work of the public administration is still in the hands of the ministries.

### THE ORGANIZATION OF A MINISTRY

At first glance, French ministries conform to that neatness of pattern which is to be expected in a highly centralized system. In a diagram the ministries would appear like rows of pyramids,

<sup>2</sup> For a fuller discussion of the Monnet Plan, see p. 356.

for every ministry is organized like every other ministry, with none of the confusing diversity which the British departmental structure exhibits (p. 137). The minister stands at the head of each ministry and all of its sections are unified, at least theoretically, by their responsibility to him.

This apparent coherence of structure is somewhat contradicted, however, by the relative independence of the bureaus (or divisions) within a ministry. There is no person in most French ministries, except in the Ministry of Foreign Affairs, the P.T.T. (Post, Telegraph, Telephone), and the Treasury, who corresponds to the permanent undersecretary of a British department.<sup>3</sup> Thus the co-ordination of the work of different bureaus is left mainly to meetings of the bureau chiefs, to the minister himself, and to his personal aides.

One result of this practice is the importance of the role of political appointees in French ministries. The personal secretariat, or "*cabinet*," of the French minister is a distinctive feature of French administrative organization. Every minister brings to his department a group of secretaries and attachés who are his personal nominees, drawn from the permanent service, or "*protégés*" of his own. They are directly responsible to him, and their particular function is to maintain liaison between the minister and the bureaus and to provide the minister with personal aides who share his political attitude and can advise him whenever he is opposed by the permanent officials.

Another semipolitical figure in the individual ministry is the *undersecretary*, usually a member of the National Assembly, though occasionally an outstanding civil servant. Though sometimes an undersecretary heads an important service within a ministry and even becomes the minister when that service is made a separate ministry, he is primarily a kind of assistant minister, appointed partly to relieve the minister of some administrative work but more particularly to increase the number of offices in the gift of the Premier. Thus the number of undersecretaries has varied widely according to the policy of the Premier: Poincaré having

none, while Tardieu had as many as fifteen at one time.

A third office which is sometimes created to aid the political direction of an administrative service within a ministry is that of *commissioner*. This officer, who ranks below an undersecretary, is a member of the parliament and is usually unsalaried.

The "cabinet" of the individual French minister offers, in little, the advantages of the American practice of choosing top departmental officers from the political supporters of the administration in power, since it guards against the determination of departmental policy by permanent officials (as in some ministries in Great Britain), by providing the minister with alternative sources of advice and information. The practice is even more important in France than in the United States, however, especially in technical fields, because ordinarily a French minister has a far shorter term of office than an American Secretary.

Yet, the French practice of having each minister bring a "cabinet" with him has two disadvantages as compared with the British policy of drawing the top officials within a ministry from senior career men. In the first place, the "cabinet" sometimes secures political co-ordination at the expense of administrative co-ordination; that is, the minister's policy is kept to the fore but its detailed execution suffers because the members of the "cabinet" have less experience in administrative work than the permanent officials of longer standing. In the second place, since the "cabinet" functions within the ministry, there is apt to be friction between it and the regular civil servants, whose morale and the attractiveness of whose positions are damaged by knowing how frequently members of the "cabinet" have been slipped into important positions in the service by ministers when they leave office. Thus antagonisms may develop which result in the "cabinet" and the permanent officials' stalemating each other while considerable harm is done to the morale of the regular civil service.

There is no particular reason, however, why the practice of having a personal "cabinet" should be combined with the insertion of its members into permanent posts when the minister leaves office. On the contrary, the particular

<sup>3</sup> Proposals have been made under the Fourth Republic that such an office should be established in all ministries.



reason for their presence in the ministry ceases when the minister who selected them is no longer there. This distinction has been understood more clearly under the Fourth Republic than previously, and the comprehensive civil service law adopted in 1946 (p. 361) should do much to limit the more unfortunate by-products of a practice which otherwise has a good deal to commend it, particularly under the French circumstances of shifting Cabinets. For even with his "cabinet," the average minister in France has all he can do in his relatively short span of office to maintain control and direction of his ministry.

#### THE WORK OF THE MINISTRIES

There are about as many ministries in France as in Great Britain, which means that there are a good many more than in the United States. French administrative organization has long suffered, however, from the fact that Cabinets have rarely stayed in office long enough to undertake a careful survey of the work of the ministries and the way in which their bureaus are grouped within them. Since new agencies are created by executive decree (despite a law of 1920 which attempted to make it necessary to seek statutory authority before creating new agencies or transferring an agency from one ministry to another), the simplest thing has been to meet the need for a new service by establishing a new bureau in an existing ministry. This practice so overloaded the Ministry of the Interior at the turn of the century that it "burst," leading to the establishment of a number of new ministries. Important ministries, like those of Labor and Health, were long overdue before they were set up. Thus, on the whole, change in response to need has taken place only as the result of extreme pressure. Yet ministries are sometimes created merely to provide additional places in the Cabinet, and for this reason there is more variation over a period of time in the number of ministries in France than is the case in Great Britain.

As in Great Britain, however, the ministries in France may be grouped roughly into five categories: those concerned with defense, external relations, internal order, economic and social matters, and finance.

For *defense*, France has a single Ministry,

which co-ordinates the work of the three secretaries of state for the Army, Navy, and Air. All of these, of course, provide civilian control of the armed forces. From time to time, there has been a Ministry of Merchant Marine. There is also a Ministry of Veterans which has similar responsibilities to those of the Veterans' Bureau in the United States and the Ministry of Pensions in Great Britain.

For *external affairs*, there is the Ministry for Foreign Affairs, which is parallel in function to the American State Department and the British Foreign Office. The *Quai d'Orsay*, as the French Ministry for Foreign Affairs is often called from its location in Paris, stresses the secrecy of its work and hides behind the screen of "high state policy" more than does the British Foreign Office. The Ministry of Overseas France (formerly called the Ministry of Colonies, and from 1881 to 1895 a part of the Ministry of the Navy) and the Ministry of Associated States (introduced in the Plevin Cabinet) together with the French Union<sup>4</sup> (which brings colonial territories together with continental France in a formal organization), control French colonial policy.

One of the major differences between French and British administrative arrangements concerns *internal order*. In Great Britain the central government merely establishes standards for and supervises the operation of the police and the court system. British local authorities have the actual control over the police, and the courts are virtually self-governing. But in France these functions are centralized in the hands of national ministries, which results in a great concentration of power instead of its broad dispersion.

Thus the Ministry of the Interior in France supervises the operation of national services at the local level and watches over the work of local administrations through the prefects (national officers who are placed in charge of each of the departments into which France is divided for purposes of local administration). In particular, the Ministry of the Interior controls the police and the conduct of national elections. The Ministry of Justice controls and co-ordinates the system of regular courts throughout France (p. 383). Some writers believe that the Ministry of

<sup>4</sup> For a more detailed account of the French Union, see pp. 410-11.

Justice should undertake the functions of the Ministry of the Interior, since the latter is notoriously "political" in its operations. It is doubtful, however, whether further concentration of power provides much of an answer. The extensive powers of both ministries were highlighted by the use the Vichy regime made of them to control the country, and under any circumstances they are two of the key ministries in a Cabinet.

The great majority of French, as of British, ministries are concerned with *economic and social matters*. Here again, as in the case of the police and the courts, administrative arrangements in France are highly centralized. The Ministry of National Education (formerly the Ministry of Public Instruction) controls the publicly supported schools throughout the country. The Ministries of Agriculture, Labor, and Industry and Commerce carry out their own local programs. Thus there is less difference between the character of their work and that of ministries providing direct services, such as the Ministry of P.T.T. and the Ministry of Public Works and Transport, than is the case in Great Britain (p. 140).

Among the newer ministries in France have been those of Public Health and Population, and of the National Economy, both of which were established in the 1930's, and of Youth, Arts, and Letters, Reconstruction and Urbanism, the Press, and Information, which were introduced by the Fourth Republic. The Ministry of Youth, Arts, and Letters, an adaptation of a Vichy program to meet the needs of young persons for recreation and leisure-time occupation, lasted only a short time under this name, but this area has been handled through a subordinate post in several postwar Cabinets. All these ministries, in fact, have been subject to change.

The Ministry of the National Economy has had a particularly checkered career. Prior to the war, it had less influence than had been expected, but in 1946 it was closely associated with the Planning Council which is responsible for the Monnet Plan and was widely heralded as the key ministry for economic planning. Thereafter, however, the Ministry of Finance virtually absorbed it and it did not reappear as a separate Ministry until the Faure Cabinet in 1952.

Though the Ministry of Finance is among the most powerful in France, its influence does not begin to compare in pervasiveness or effect with that of the British Treasury, which is the most important agent of interdepartmental coordination and control in Great Britain. The Ministry of Finance receives from other departments requests for expenditures, and its Division of the Budget and Financial Control assembles them. But it has far less authority than either the British Treasury or the American Bureau of the Budget to propose reductions or revisions. The Finance Minister, too, has relatively little influence in modifying the proposals of his colleagues in the Cabinet, unless the Premier himself gives vigorous support. For while it is the responsibility of the Minister of Finance and his department to prepare them (unless a Ministry of the Budget undertakes it) it is the Cabinet as a whole which exercises decisive influence over proposals for raising revenue.

Moreover, there is a long (and somewhat disastrous) history in France of legislative interference with the budget. Under the Third Republic the Chambers used to tear the budget apart in a way paralleled only by American practice. Under the Fourth Republic budgetary proposals have been forced through the National Assembly on a number of occasions only under the threat of resignation by the Cabinet.

Even when the budget is passed, difficulties are not ended. Though in theory the execution of the budget is centralized in the hands of the Ministry of Finance, the ministries are relatively free from supervision in their expenditures. The Ministry of Finance disburses money to the departments in accordance with the appropriations but retains little discretion. There is no flexibility in transferring balances from one agency to another; and ministries have slight incentive to economy, since appropriations are withdrawn if not used by the end of the fiscal year. Furthermore, the Ministry of Finance has no effective check on expenditures to ensure that they correspond to the purposes for which money was voted: in other words, no effective system of pre-audit, i.e., a check before money is spent to make sure expenditure has been authorized.

There is, however, a system of post-audit (i.e., after the money has been spent) through the Ministry of Finance, with a check by the Court

of Accounts (*Cour des Comptes*), a body of judges, with a technical staff, appointed for life. This body was generally behind in its work in the inter-war period (though the much repeated story that the accounts for 1918 and 1919 were not returned until 1937 is probably apocryphal), but it has become much more vigorous and effective under the Fourth Republic, which considerably extended its authority by Article 18 of the Constitution. Where previously the Court of Accounts had no direct contact with the Finance Committee of the National Assembly, or with the ministries, it now officially assists the National Assembly in drawing up the public accounts, and also may undertake inquiries or studies, on the request of the Assembly, in regard to public receipts or expenditures or Treasury administration. In its reports of 1947 and 1948, the Court of Accounts pointed out irregularities and gross squandering of funds, of which the Assembly formally took note. Moreover, it has vigorously criticized the practice of the Cabinet of bringing in a series of finance laws (see p. 322), and has advocated a return to a unified budget presented once a year. In addition, the Court of Accounts has an ultimate check on the accounts of state commercial and industrial enterprises, nationalized industries, and semi-public undertakings of which the state owns the majority of the capital, though the Control Commission (p. 354) deals more directly with them. In the summer of 1949, the Court of Accounts was also made responsible for checking the bodies which administer the National Insurance Scheme, even though these bodies are not public but made up of the representatives of the interested parties (see p. 403). Further to control expenditures, the Assembly established a Court of Budgetary Discipline (*Cour de Discipline Budgétaire*) in September 1948, empowered to discipline government officials who did not adhere strictly to economy measures. These bodies, particularly the Court of Accounts, have done much to regularize and check the financial transactions of the ministries.

More serious is the problem of taxes. The Ministry of Finance, which is responsible for their collection, has three field divisions: direct taxes, registrations, and stamps; indirect taxes; and customs. But holes in the taxation laws, and

poor administration, have resulted in a startlingly bad record in the collection of taxes. Thus while taxation rates have risen and taxes have multiplied, French revenue has remained far from adequate. Moreover, where the United States in 1946 was collecting 73 per cent of its budgetary revenue through an income tax, and Great Britain 51 per cent, France could collect no more than 30 per cent.

An old, and somewhat exaggerated, saying declares that "France is a country of excessive taxation fortunately tempered by fraud." Yet fiscal receipts demonstrate, in fact, that more and more enterprises have been evading taxation. In 1946, 43 per cent of the yield of direct taxation came from salaries and fixed incomes, where evasion was more difficult. Agricultural profits, in contrast, yielded only 3 per cent. Less than half a million farms paid the *impôt cédulaire* in 1946 and only 25,000, the *impôt général* (both general income taxes, related particularly to profits). In fact, few ministries in the history of France have been willing to incur the hostility of the highly influential farm vote by enforcing the collection of taxes. Thus one of the major problems of the Fourth Republic has been to "regularize" the budget and to redistribute the burden of taxation more equitably over the whole body of taxpayers. This requires not only more carefully drafted laws, however, but also more efficient administration of them than has been common in the past.

### *Interdepartmental Co-ordination and Control*

In few respects has French administrative organization been so inadequate as in regard to co-ordination and control of the work of the different ministries. Not only has the Ministry of Finance never exercised the effective supervision over the operations of other ministries that the British Treasury does, but under the Third Republic there was no other body comparable, for example, to the American Executive Office, through which the President of the United States maintains liaison with the whole administrative structure. Moreover, there was not even a general personnel agency similar to the American and British Civil Service Commissions. The net result was to give each ministry a degree of

independence in selecting personnel and carrying out its particular functions which was incompatible with unified and economical administration.

#### NEW ORGANS OF CO-ORDINATION

The dangers of the absence of administrative co-ordination and control have been clearly recognized under the Fourth Republic and steps have been taken towards meeting the problem. The General Secretariat of the Premier (see p. 334) provides a significant new center of gravity within the government; the Civil Service Directorate, set up in October 1945, provides for the first time uniform personnel policies throughout the service. The role of the administrative section of the Council of State (p. 350), long the most important general advisory body in France, has been extended. Thus the gigantic task of introducing effective administrative co-ordination and control has at least been tackled.

The Civil Service Directorate (*Direction*), a body of experts attached to the General Secretariat, is, however, largely concerned with personnel and only secondarily with the reform of administrative methods. It is a general personnel agency which supervises rather than controls recruitment, classification, and conditions of service, and gives advice on means of securing better co-ordination between the ministries. The *Superior Council of the Public Service* (see p. 364), also set up in October 1945, but with its responsibilities somewhat restricted in 1948, is an advisory body, which *may* be consulted on any question touching the public service, and *must* be consulted in certain matters, notably the fixing of minimum salaries for civil servants. The distinctive feature of the membership of the Superior Council is that it includes not only high government officials but also delegates of civil service unions.

Upon their establishment, these bodies began at once to tackle their huge tasks of bringing more order into civil service arrangements and planning more efficient and economical use of personnel. The first work of the Civil Service Directorate was to make a census of all French civil servants, the first comprehensive census of this body ever made. On the basis of this information, *orientation and re-employment centers* were established in February 1946. These centers

can move civil servants from unnecessary jobs to places where their skills are needed and place other civil servants in private employment when economy dictates the reduction of personnel in some agencies and the elimination of wartime units. Though these are emergency measures, they have far-reaching effect on the whole service.

In addition to the centers, the *Committee on Administrative Reform* was established which is responsible for drawing up reorganization plans, investigating the efficiency and costs of existing agencies, and planning for suppression, amalgamation, or creation of services.

Neither of these agencies in any way derogates from the authority of the Directorate and the Superior Council. On the contrary, they act as its aides in the general work of preparing important governmental decisions regarding the civil service and administrative reform. Similarly, both the Directorate and the Superior Council are aides to the Premier. The purpose of all these new administrative agencies is to provide the responsible political authorities with adequate information and expert advice on how to meet the vast problems involved in establishing effective co-ordination and control in the public service.

Though these new agencies are undoubtedly useful, it may be questioned whether they are adequate for the situation. At one time there was a plan to place the whole civil service under a minister, in the hope of securing complete unification of authority in the field of personnel. In the end, however, final authority was left in the hands of the Premier, who is already so overburdened with work that it is doubtful whether he can make the most effective use of the advice provided him (though he can designate a minister or an undersecretary to handle his general responsibilities for the public service). In view of the peculiar difficulty of enforcing co-ordination and control upon ministries which have traditionally been highly independent in their operations, agencies like the Directorate and the Superior Council may well need, therefore, to be supplemented by more authoritative administrative bodies which could exercise control more comparable to that of the British Treasury.

However desirable this might be, the estab-

lishment of more centralized authority within the service can hardly be looked for in the foreseeable future. Even the present moves awakened considerable opposition as being too "authoritarian" in scope, opposition which is reminiscent of the objections in 1938 to President Roosevelt's proposals for administrative reorganization in the American public service, which were overridden only by the urgency of developing a more efficient administrative structure to handle national responsibilities in a time of war. In France the objections may not seriously impair the present program, but they may keep it from developing very quickly.

#### THE COUNCIL OF STATE <sup>5</sup>

Though it does not have direct responsibilities for co-ordination and control, there is an administrative agency in France, the Council of State (*Conseil d'Etat*), which has long provided a very valuable means (without parallel either in Great Britain or the United States) of checking the form and character of governmental decrees. The traditional role of the Council of State in the preparation of governmental decrees was vastly extended by the Provisional Government and has remained so significant under the Fourth Republic that its members have been called the "Advisors of the Republic."

The Council of State has long performed two separate and distinct functions: giving technical advice to the Cabinet on the preparation of laws and decrees, and serving as the supreme administrative tribunal for the country. These two functions are exercised by different sections of the Council, one of which, the administrative court, will be considered under the judiciary. Yet both sections have in common the excellence of their membership and the high quality of their work. As a result, the Council of State as a whole enjoys a great reputation both in France and abroad.

The advisory section of the Council of State is part of the public service, and most of its staff are selected initially by the stiffest competitive examinations in the public service from the best graduates of the law faculties and Institutes of Political Science who have completed

their training at the National School of Administration (see p. 359). If these recruits prove satisfactory, they may advance in time to the highest posts in the Council of State. In addition, the Cabinet may appoint, as Councillors of State "in extraordinary service," as many as thirty-one high officials who have gained their experience in practical administration in other agencies. Thus a fortunate blend of practical experience and technical ability is secured which is extremely helpful in legislative advisory work.

Prior to World War II, however, the Cabinet rarely sought the advice of the Council of State in the drafting of legislation, and the Council's chief responsibility was to provide advice on cabinet ordinances, particularly those which established new government services or filled in the details of skeleton legislation. Individual members of the Council also gave technical advice to ministries on the drafting of legislation, and, as a result, the technical form of French legislation has been remarkably good. But when one considers the wide use made of the decree power after 1926, the Council of State played a much less significant role than might have been anticipated, the reason being that Cabinets kept the most important measures solely in their own hands.

In 1941 General de Gaulle and the French National Committee inaugurated a new policy, subsequently endorsed by the Provisional Government, of referring all proposals of a legislative character to a specialized body before putting them into effect. Behind this innovation was both a recognition of the value of securing technical advice before enacting projects and the desire, in the absence of an elected body, to associate some other group with the executive in the formulation of measures having binding force. In 1943 the Provisional Government established a juridical committee to give advice on the preparation of legislative acts, but it was prematurely dissolved in September 1944 just before the Constituent Assembly could have made use of its work. Almost a year elapsed before plans were completed to restore the Council of State. At the end of that time, however, in accordance with an ordinance of July 31, 1945, the Council of State undertook its new responsibilities of studying all legislative pro-

<sup>5</sup> For the work of the Council of State as an administrative tribunal, see Chapter 8, pp. 292-93.

posals and ordinances before they were considered in the Cabinet.

The advisory section of the Council of State has traditionally operated through functional divisions, of which there were four until 1934, when the division on legislation was dropped as an economy measure. Before its restoration in 1944, members of the Council moved from one division to another every two or three years to maintain their familiarity with general administrative problems, and occasionally all met together in general session at the request of a minister to consider a draft decree.

Under its newly expanded responsibilities, the Council studies a project in one of its administrative divisions and then passes on it in general assembly. Ordinances marked "urgent" by the Premier at the request of a minister are considered by a permanent committee of the Council of State, which has functions similar to those of the former juridical committee and is equipped with a special secretariat.

The Council of State has advisory functions only, but its advice is so valuable that it carries great weight. Both the Constituent Assemblies adopted the practice of referring measures to the Council of State and found its advice particularly useful in preparing the structure of the nationalization programs.

To prevent the re-emergence of the practice of skeleton legislation (for which the details were filled in by the administration in the light of specific situations) to which France under the Third Republic was almost as much addicted as is Great Britain, the Constitution of the Fourth Republic specifically forbade delegation of legislative powers. This has meant, in practice, that the National Assembly has been seriously overburdened with legislative work. Not surprisingly, therefore, it has been suggested with increasing frequency that the Council of State might be used to a greater extent by the Assembly to work out the details of laws after the Assembly has considered them. Under these circumstances, the Council of State would have, in effect, a post- as well as pre-check on legislation. Even without this, however, the Council of State performs a service valuable for the Assembly through checking executive decrees and ordinances to see that they do not

conflict with legislation;<sup>6</sup> for France has made more extended use of the decree power than any other democratic country which has survived, and parliament itself is obviously not able to maintain constant watch over this use of executive power. Thus the Council of State in its administrative capacity is not only perhaps the most distinctive of French institutions but one of the most useful.

### *The Organization for Nationalized Concerns*

Nationalization under the Fourth Republic is both broad in scope and novel in the forms of organization adopted. The earlier "mixed" corporations (p. 341), in which stock was held by private interests as well as by the state, were not used until 1948, when the airlines and two major maritime shipping companies were placed under this form of organization. In most cases, however, the state is the sole owner, though even there the French have not used exactly the form of public corporation developed in Great Britain (p. 142) and the United States. The new French agencies are technically autonomous and financially independent, as are British or American public corporations; similarly they are independent legal entities capable of suing and being sued; they are liable to taxation, and their employees are not under civil service rules. But the French nationalized concerns (apart from those of "mixed" form) are distinctive in their wide use of interest representation on boards of directors, a device with which British and American public corporations have never experimented.

To a large degree, interest representation is based on the formula of "industrialized nationalization," proposed by the *Confédération Générale du Travail* (p. 243) as early as 1918. This formula involves management of enterprises under state control by a board of directors which has collective responsibility but is composed of representatives of the state, the workers, and the consumers. This form is not invariable, since the coal mines of the North were at

<sup>6</sup> In its role as an administrative tribunal the Council of State can annul decrees which are not in conformity with legislation. For further consideration, see p. 393.



first (and the Renault works have continuously been) under "authoritarian administration," according to which there is a president-director general, responsible to the minister, and advised by the board of directors. Further, the National Credit Council and National Insurance Council are each headed by a minister (the latter by the Minister of Finance), though the national body in each case and the boards of the separate enterprises under their direction have multipartite representation. Tripartite administration is widely accepted, however, as the form for industry.

#### THE NATIONALIZATION OF CREDIT

As far as the nationalization of banking and credit is concerned, the French measures are rather similar to those in Great Britain though, potentially, more far-reaching in character. In both countries the central bank was nationalized, a move which made less of a change in France than in Great Britain since the Bank of France has always been closely supervised by the government. The major result of nationalization in 1945 was that the shares of the Bank became the property of the state, the former shareholders being indemnified through government stock, as has been the practice in all French and British nationalization proceedings.

A greater innovation was the transfer to the state of the shares of the four big deposit banks of France. These banks are now run by boards of directors of twelve members of whom the Minister of Finance appoints four, and the bank employees' unions nominate four, and the remaining four represent industrial and agricultural organizations. The sphere of activity of these banks is now controlled by the National Credit Council, and the execution of regulations is overseen by a supervisory commission for the banks.

Banks which have not been nationalized are supervised by government officials, and the more important among them have a government commissioner who attends their board meetings and may veto any decision which he judges to be contrary to the public interest.

But the central agency of the new financial system is the National Credit Council (headed by a Cabinet minister, and with the Governor

of the Bank of France as vice-president), whose forty members represent ministries and financial institutions, and, in addition, labor, agriculture, and commerce, in the belief that all branches of activity in France should have a share in direction. Even those nominated by interest groups, however, are appointed by the government. The National Credit Council is in a strategic position to supervise and direct the financial policies of the government, since all measures relating to credit, whether by public or private groups, are under its jurisdiction. It makes the proposals for financing the Monnet Plan (see p. 356), and similarly for the amount and kind of Treasury borrowing. By imposing restrictions on bank credits in 1948, for example, the National Credit Council which, as can be expected, works closely with the Ministry of Finance, aided the government's battle against inflation. The National Credit Council, in fact, because of its wide powers and representative membership is capable of exercising complete control over credit in France. Yet on the whole, its policy has been cautious, and the general picture of the French economy suggests that, in any case, technical manipulations are not enough to solve its basic problems.

From the structural point of view, a striking feature of the "nationalization of credit" is the position given to labor, both in the control of credit, and in the management and supervision of the banks. Not only do workers form just over one-eighth of the members on the National Credit Council, but employees in each nationalized bank nominate four representatives to serve on the twelve-member board and to participate in management. Even in the case of the big nonnationalized banks, a union representative serves on a supervisory committee which assists the government commissioner. Yet the government keeps close and ultimate control.

#### NATIONALIZED INSURANCE

Workers are represented even more heavily in nationalized insurance, although the general arrangements resemble those for the banks. The governing agency in this field is the National Insurance Council, which advises the Minister of Finance (who acts as its chairman) on general conditions of service, technical rules,



the co-ordination of nonnationalized and nationalized insurance companies (the former controlling about 35 per cent of the premiums issued in France), and the organization of the whole field of service. The National Insurance Council has tripartite membership, representing the state, policy holders, and insurance employees. Moreover, each of the nationalized insurance companies (which retain their separate identity) has on its board of directors three representatives each of the state, the National Insurance Council, the unions of employees and agents, and the insured.

Nationalized insurance companies have little autonomy of action, since their policies are controlled by the Insurance Council, the Minister of Finance, and the Reinsurance Fund, which insures the insurance agencies. The Fund also provides one more link between nationalized and nonnationalized insurance companies through its general supervisory functions, and through the fact that all nonnationalized insurance companies must allot it a portion of their premiums.

#### THE NATIONALIZED INDUSTRIES

The most important of the nationalized industries are coal, gas, and electricity. In these industries, workers, consumers, and the state each have six places on the national boards of directors,<sup>7</sup> thus giving "industrialized nationalization" its fullest realization.

The French coal industry is organized on more decentralized lines than the British (see p. 145). There is a central agency called "French Collieries" (*Charbonnages de France*) with general authority to direct and co-ordinate the operations of the mining agencies (*Houillères de Bassin*) in each coal field. "French Collieries" carries on technical research, organizes training, and determines prices and future programs. The mining agencies, which are regional and largely autonomous organizations, deal with the production, processing, and sale of coal.

The organizations for production and distribution of gas (*Gaz de France*) and for electricity (*Electricité de France*) are national public corporations operating through regional and

intermunicipal units. They bear marked resemblance to the British organizations in the same fields except that there is provision for greater co-ordination and integration between gas and electricity in France than in Great Britain, since they have a joint National Equipment Fund and Superior Council and, in a somewhat odd arrangement, the deficits in gas have customarily been met by surpluses earned by electricity.

The most novel, and probably the least satisfactory, feature of the French public corporations is the tripartite representation on the boards of directors. In place of having boards whose members are all appointed by the government and paid salaries (as in Great Britain), the French have relied on unsalaried boards (except for the chairman) on which the representatives of workers and consumers can easily outvote those of the state. In fact, the trade union element has an overwhelming advantage: the employees' representatives are nominated by the dominant union, usually the C.G.T., though sometimes the C.F.T.C. (see p. 244); consumers' representatives are frequently chosen by a representative organization, which may well be a trade union; and civil servants themselves are often *de facto* in a trade union. According to one characterization, tripartite administration may mean "the C.G.T. throwing the ball from one side to another of a triangle." The greatest overweighting of the trade union interest is in the mining agencies, whose boards of directors of nineteen members include seven directly appointed by the trade unions, six from the consumers, and six from French Collieries, meaning, in practice, probably at least ten trade unionists on the board.

There are two major problems arising out of tripartite administration. The first is the difficulty of securing effective and coherent governing policies from so large and divergent a group, most of whom owe primary allegiance to some outside body, or else, in the case of the civil servants, are performing their functions as only a minor part of their regular work. To overcome these difficulties, smaller boards with full-time, salaried members have been proposed.

The second problem arises from the dominant influence of trade unions, particularly the C.G.T., and the control of this union, in prac-

<sup>7</sup> On the lower boards, the state has only four members, the workers, six, and consumers, eight.

tice, by the Communists. There is, in fact, good evidence that the Communists looked on tripartite administration as a means to establish their control in particular agencies or even industries. In January 1947, the current President of French Collieries even opposed the appointment of experienced civil servants to represent the state on its board of directors, maintaining that the "lowest street sweeper" had an equal right to be chosen for such an office. Though in the same month the Cabinet by decree provided guarantees for the selection of state representatives on the board of directors of French Collieries, and in other ways reinforced the government in dealing with troublesome directors, it was only after the serious Communist-inspired strikes in the coal mines late in 1948 that these provisions were made effective. In addition, however, it would seem important to have free election of representatives by the personnel of the various organizations rather than have them nominated by the dominant trade union; it is also important that the government have the right to select representatives of the consumers on the basis of certain generally accepted criteria.

But however valuable or unsatisfactory tripartite administration may be, experience seems to show that in fact the autonomy of the nationalized enterprises is more theoretical than real. The control over them exercised by the French government is in practice at least as effective as that by the British government over its public corporations. Indeed, since the French Ministry fixes the price of gas, electricity, coal, and so forth (and thus has a great measure of responsibility for operating deficits, where these occur) and appoints the director-general of each corporation (who exercises great authority, particularly when the board of directors is in disagreement) its controls are more substantial than those exercised by the British government.

There is, in addition, a special organ which closely supervises the management and operations of all nationalized enterprises. The *Chambre des Comptes*, a body of experts in industrial management and accounting, set up in 1946 to inspect and audit the accounts of public corporations, was superseded in 1948 by a similar organ, the Control Commission (*Commission de Vérification des Comptes des Entreprises Pub-*

*liques*), composed of members drawn from the Court of Accounts (see p. 348) and the Ministry of Finance. The Control Commission has full powers of investigation, presents detailed annual reports to the Ministry of Finance, and makes general reports to the Ministry, the National Assembly (which has a special sub-committee on nationalized enterprises), and the Court of Accounts. In these reports, it considers both "the quality of the commercial and financial management of the undertakings" and "the activities and results of the undertakings," and proposes modifications of structure and organization. Since the director of a nationalized enterprise showing an operating deficit is automatically removed from his post unless specifically re-appointed, there are obvious sanctions for efficiency. Beyond this, however, the Control Commission, as an independent commission operating an efficiency audit, can make positive proposals which, if they are used, may well be of the greatest service. In developing such an agency, the French may have found an important means of answering the ever-pressing question regarding public enterprise: how to keep it efficient in the absence of competition.

The contrast between the theoretical autonomy of the nationalized enterprises and the actual control by the government raises practical questions of which the French have not been unaware. The Cabinet, in fact, presented a bill in December 1948 (on which action was long delayed, however), which aimed to replace the existing piecemeal structure of the public corporations with a uniform structure based on certain broad principles. According to this measure, public enterprises would be divided into two categories according to whether they possessed a monopoly in a public service of general concern, like coal, gas, electricity, and railroads, or whether they acted competitively with private enterprise in a field like insurance and the production of automobiles. They would all have financial autonomy, be compelled to balance their accounts, and, in fact, be deprived of financial assistance unless certain conditions were imposed. Each enterprise in the first category would be under a general director, appointed by the Ministry from the public service or on the basis of broad practical experience. Tripartite representation would be retained

but with the representatives of the state placed in a stronger position. Moreover, not only would the appropriate minister have to give preliminary approval before major decisions were taken, but there would be a government representative in each enterprise with a power of veto (which would have to be sustained by the minister within ten days) over the decisions of the board of directors. Enterprises in the second category would be subject to less stringent controls unless they appealed to the government for financial assistance.

In general, it seems apparent that the nationalization program in France is looked upon as relatively complete, and not as a step towards a collectivized economy, unless the extreme Left should come into power. It is recognized, as in Great Britain, that perhaps too much was attempted at a time when the economy as a whole was in its most shaky position, and that the profound reorganization attempted in many spheres, if it did not handicap the process of recovery, at least was itself made more difficult by the problems of reconstruction. Nonetheless, there is much less talk in France than in Great Britain of reversing any of the nationalization measures. The particular concern in France is to end the substantial operating deficits of nationalized enterprises (mainly insurance, coal, and the public utilities, except electricity) and develop more uniform structure within which the representatives of the government will have a controlling role.

### ***The Organization for Economic Planning***

Far more than Great Britain, France has established special organs to deal with economic planning. Though in France, as in Great Britain, the Cabinet and legislature still retain ultimate control over the final form of all economic projects, they are less continually concerned than their British counterparts with the process of economic planning. The preparation of economic plans is mainly in the hands of the Planning Council (see below) working through its combined secretariat and technical staff, the *Commissariat Général du Plan*, though the Economic Council and certain departmental committees also play a role.

At first glance, the apex of the structure for

economic planning appears to be the *Economic Council*, which was established by the Constitution of the Fourth Republic. According to the Constitution, the National Assembly must submit all social and economic projects (except the budget) to the Economic Council for its advisory opinions, which are to be given within ten, or if necessary two, days. Moreover, the Cabinet must also seek the advice of the Economic Council in general questions of economic planning. But neither the Cabinet nor the National Assembly is required to heed the suggestions of the Economic Council which, in consequence, has no real measure of power.

The Economic Council is, in fact, a compromise between the insistence of the Left on a sovereign Assembly and the fight of the M.R.P. for another legislative organ, preferably one with a corporative flavor. Thus the M.R.P. would have liked to make the Economic Council an "economic sub-parliament," in which employers and employees in the major fields of industry and agriculture were represented. As far as membership is concerned, the Economic Council does follow this pattern in general, being composed of 164 members chosen by different professional and functional groups, such as labor, employers, agriculture, and a few "broad-interest" groups like family associations and an organization representing the middle class (the "Congress of the Middle Class," founded in 1946, which holds annual sessions devoted to planning for the interests of this group). But its position is only that of a technical advisory body without much more influence than the old National Economic Council (p. 343), except that recourse to the Economic Council is mandatory.

The membership of the Economic Council is characteristic, however, of the typically French practice of drawing on the experience of different interest groups in the community in planning governmental programs. Many French ministries (e.g., Agriculture, Commerce, Air, Labor, Overseas Territories, Health, Education) have long had *advisory committees* through which to keep in touch with private groups in their sphere of action. Some of these committees (e.g., for railroads and P.T.T.) have a formal share in the formulation of policy, and all

of them have frequent opportunities to express their views. Thus they have provided France with a substantial experience of the usefulness of private functional groups acting in an advisory capacity to government.

The use of such private advisory groups has been extended and made a central part of the organization for France's most ambitious attempt at economic planning, the Monnet Plan. This plan is the outcome of the mandate given to the *Planning Council*, the body politically responsible for France's economic plans, which is headed by the Premier and includes all the ministers, together with eighteen persons "chosen for their competence" from unions (C.G.T., the C.F.T.C., and miners), employers, agricultural workers, and engineers. To carry out its detailed responsibilities for drafting a general economic plan, such as had been demanded (p. 266), the Planning Council established the joint secretariat and technical staff, known as the *Commissariat Général du Plan de Modernisation et d'Équipement*, which operates under the direction of Jean Monnet, one of the most remarkable Frenchmen, and indeed Europeans, of the day. His brilliant mind and fertile imagination have made him the architect not only of the plan for the modernization and re-equipment of France, but also, in large measure, of the Schuman Plan (see p. 415). One-time Deputy Secretary General of the League of Nations, a man whose analytical and co-ordinating ability was a crucial factor in the economic program for victory in World War II, Jean Monnet possesses a superb capacity to translate ideas into reality. Nowhere has he done it more impressively than through the plan which bears his name.

#### PREPARING THE MONNET PLAN

For securing the data necessary to produce a comprehensive plan of modernization and equipment, Monnet used both the resources of government departments and a technique similar to that of the "Working Parties" developed in Great Britain by Sir Stafford Cripps (p. 148). The French system, however, was more comprehensive and unified. Eighteen *Modernization Commissions*, each with employee, employer, and independent members, concerned

themselves not only with particular industries<sup>8</sup> (as do the Working Parties in Great Britain) but also worked on the general objectives of the plan, so that their findings contributed directly to the formulation of an over-all industrial policy. This unity was facilitated by drawing the *rapporteur* of each commission from the permanent staff of the *Commissariat Général*.

Another distinctive feature of the French "Modernization Commissions" is the large numbers of people who participate in them. The British Working Party is a small, selective, and skilled body. The particular purpose behind its work is to provide the government with expert information on a nonnationalized industry so that an appropriate governmental policy may be designed for that portion of the economy. But Jean Monnet intended not only to secure expert information but also to educate a wide group of people in the importance of economic planning and in the vast intricacies of a nation-wide plan. Thus, more than a thousand persons drawn from among trade unionists, industrialists, farmers, civil servants, and experts, "with the most varied backgrounds and experience," as Monnet pointed out in his preface to the report, participated in the survey on which the original plan was based. Moreover, the "Modernization Commissions" continue to be used by the *Commissariat Général* of the Planning Council for securing the information necessary for adjusting the original plan to changing conditions.

The form of the Monnet Plan itself is also distinctive. For the first time the agencies of a democratic state formally drew up and adopted a specific set of economic objectives with nation-wide implications. It is true that the difference from British economic planning is perhaps more in form than in reality, but from the point of view of public education, if of nothing more, the form is important.

#### THE CHARACTER OF THE MONNET PLAN

The Monnet Plan has not attempted, however, to cover every aspect of national life as

<sup>8</sup> The eighteen fields were coal, electricity, iron works, inland transport, fuels, rural equipment, agricultural machinery, vegetable production, animal production, building materials, building and public works, machine tools, automobiles, textiles, motion pictures, consumption and social modernization, manpower and labor, and overseas territories.

do the Soviet Five-Year Plans (p. 503). On the contrary, originally it dealt in detail with only six "key resources": coal, electricity, iron and steel, cement, agricultural machinery, and transport, for which it set forth the degree of modernization, the manpower needed, and a "target" of production for each succeeding year. The particular method adopted for expansion was to accelerate the rate of investment channeled into these key resources, thus affecting the whole economy. As the plan evolved, however, other branches of industry have been included, either because they had an essential relation to the original six, or because further expansion was needed to balance France's external accounts. Agriculture is now in the "basic" category, as are oil and fertilizers. Economic developments in overseas territories have been given special consideration. And attention is also being devoted to the chemical, non-ferrous metal, and rayon industries.

The urgency of the need for re-equipment of French industry can be understood only against the background of the industrial décadence which France suffered after World War I. In 1939 the real value of France's income was about the same as that in 1913; but during those years France's industrial production had fallen from 7.2 to 5.1 per cent of world production. The capital equipment of French industry was on an average 25 years old as compared with 7 to 9 years in Great Britain, and 5 to 7 in the United States. Agriculture and the building industry were also strikingly lacking in modern development, France possessing only one tractor to 1,500 acres, and the average age of houses being 50 years in the towns and 100 years in the country.

This trend has been reversed by the Monnet Plan. In the first four years of the Plan, 1946-1950, for which the original estimates were drawn, the French economy emerged from almost complete ruin, and went far on its way to recovering the competitive status it lost in 1913. By 1949, 6.4 per cent of the national income was being channeled into the selected industries (including agriculture) as compared with 3.3 per cent in 1947. The electrical power industry secured the greatest share, with agriculture not far behind. The coal industry had been substantially re-equipped. Transport facilities in

overseas territories had been greatly improved. The steel and oil industries had undergone renovation and moderate expansions of capacity. As a result, by 1950 electric power plants were producing 50 per cent more than in 1939; refineries were processing twice as much oil; industry was producing 12 per cent more than in the best prewar year of 1939, and 23 per cent more than 1938; and agriculture had raised its output by nearly 10 per cent above the average of the years 1934 to 1938.

Necessarily, the vast investment outlay of the Monnet Plan owed a tremendous debt to Marshall aid (amounting to \$2,300 million by 1950). In the first place, Marshall aid was essential to the steady flow of raw materials to rebuild the French economy. Beyond this, a high proportion of the financing of modernization has been through "counterpart funds"—those funds (in local currency) that equaled the value of the goods received from and were set aside by each recipient of Marshall aid. Thus while over half the total investment of the Plan came from public funds during its first years, more than half of these public funds, in turn, were counterpart to Marshall aid. Moreover, the heavy inflationary pressures of the Monnet Plan could not have been surmounted without Marshall aid. It can be said, therefore, that without Marshall aid the Monnet Plan would have been only a shadow of itself; equally, without the Monnet Plan and Marshall aid, French industry might well have collapsed entirely.

The importance of Marshall aid to the success of the Monnet Plan has led to great efforts to make sufficient advances in modernization and re-equipment so that at its termination France will be able to carry the burden of investment itself. Yet there is still an overwhelming amount to be done. Agriculture, with five times as many tractors in 1950 as before World War II, still has a startlingly low productivity. The appalling housing shortage acts as a deterrent to recruitment of the foreign labor which France needs so badly. The modernization achieved in the basic industries needs to be extended to secondary industries. Moreover, the pressures of rearmament, and the corresponding rise in prices of raw materials, threaten the progress which has been made.

The central problem remains that of produc-

tivity. In 1938, the output of an American worker was three times as great as that of a French worker; in 1949, it was four times as great. The urgent need to solve this problem led to the establishment in July 1948 of a special Working Party on Productivity within the *Commissariat Général*. In addition to re-equipment, the committee recommended government-sponsored educational and research programs. As a result, the National Committee on Productivity, representing appropriate ministries, and employer and trade union organizations, was created in 1949, and in the year following, the French Association for Greater Productivity. But the problem of productivity is not only one of modernization, and education; it is linked to the general lack of social unity.

Though nationalization and economic planning are different answers to somewhat the same problem, there is not a great deal of relationship between them. There is no marked concentration upon nationalized enterprises in the Monnet Plan; for example, only three out of six of the original "key resources" fell into this category. It is true, however, that the existence of a substantial segment of the economy under government direction has aided the detailed carrying out of the Plan. Government departments and nationalized industries (including railroads, mines, and electricity) are required to follow instructions and make progress reports. Large enterprises enter into contracts with the state to fulfill requirements and receive allocations of materials accordingly. In agriculture and the building industries, which are too dispersed for such methods, regional and departmental bodies give expert advice and assist with materials and finance. The general principle is retained, however, of making use of trade union members, industrialists, farmers, civil servants, and experts for the investigation of developments and the adjustment of the program to changing conditions. Thus it is the representatives of all groups in the economic community who supervise those who are responsible for executing the plan. By these means it is hoped that an "*économie concertée*" (an agreed-upon economy) may be achieved, rather than a bureaucratic or corporative "*économie dirigée*" (directed economy).

This principle of functional representation is

of great value for modern industrial democratic states, for it provides a halfway arrangement between the old rigid division between official and private activities and the complete unity of both in such a structure as the Soviet Union (p. 507). In management, the use of interest representation needs further safeguards to attain useful results. But if the experience and interests of private groups in the community can be brought constantly to bear on official activities, an important step may be taken towards answering the problem facing all democratic states, of how in day-to-day affairs to combine expertness with responsiveness to the will of the community. Combined with long-range planning, such use of private experience might help to overcome the problem (which is particularly pressing in France) of maintaining continuity in policy despite changes in the composition of Cabinets.

### III. THE NATIONAL PUBLIC SERVICE

The French civil service holds a position of exceptional power within the structure of government, both because of the high degree of centralization in the French system, and because the instability of ministries places much of the responsibility for continuity of policy upon the permanent officials. To a high degree, therefore, the execution of public purposes in France rests upon the good faith and impartiality of its civil servants.

There is all the more reason, then, why France should have developed well-devised means of selecting its public officials and a code of ethics suited to their responsibilities. But in both respects France has been far behind Great Britain. Though it has never suffered from a "spoils system" like that which once flourished in the United States (partly at least because no single French party has ever captured full control of the executive or legislature), personal patronage used to be common in the French public service. In some ministries patronage was used to maintain the predominant position of certain bourgeois or privileged groups which were not always sympathetic to the Republic; in others it was used to honeycomb the service with personal favorites.



In Great Britain Parliament took the lead in the struggle against patronage and favoritism in the public service and early adopted a comprehensive and service-wide system of selecting public employees (p. 151). In France the movement for reform came from a very different quarter, the public service itself, working through organizations of staff associations whose members sought protection for their positions. The answer was a long series of orders, some issued by the Council of Ministers, but others by individual ministers and even bureau chiefs, which embodied regulations for particular departments or even their subdivisions. Such regulations helped to bring the French public service increasingly under the merit system, with selection of personnel (at least at the lower levels) through open competition; but the rules governing recruitment formed an unco-ordinated patchwork, differing in detail from section to section.

Only under the Fourth Republic has a systematic effort been made to provide grades applicable to the whole service. The task, however, is a monumental one. The Civil Service Directorate (p. 349), which is entrusted with the responsibility of unification, found that more than one hundred different statutes governed recruitment and classification in the ministries. As a first step towards unifying these regulations, the Directorate drew up a number of model arrangements, designated four categories (known only as A, B, C, and D, with A the highest in rank) into which all civil servants were classified, and issued detailed suggestions on how ministries should adjust their practices.

The top grade is for civil administrators, a group consciously modeled on the British administrative class (see p. 152). The civil administrators constitute a single class responsible for the top policy decisions made within the permanent service and subject to the same rules regardless of what department they may serve in. The next grades, the secretaries of administration, resemble the British executive class, and are spoken of as "the technicians of the administrative services." They include top office managers, accountants, and translators. Below them are the administrative clerks, and the typists and manual workers. It is true, of course,

that by its very nature governmental work tends to fall into broad categories—administrators, lower executives, clerks, and manual workers—so the new classification does not provide radical changes in this regard; but it is equally true that the comprehensive classification the French have now made is of marked importance in overriding the excessive compartmentalization in the separate Ministries which was formerly so characteristic of the organization of French civil servants. When the classification is taken in conjunction with the new provisions for recruitment of the higher civil service, the results are of great significance.

### *Selecting Civil Servants*

As the French ministries established merit systems for selecting their staffs (above the level of manual workers), they adopted the British practice of gearing their tests to the educational system, not the American practice of favoring the candidate who has had practical experience in a particular type of work. The lower ranks of clerks are recruited from the primary schools, do repetitive work, and carry out instructions under supervision. Higher clerks and lower executives, who correspond to the executive class in Great Britain, are recruited from secondary schools, carry much of the burden of routine work, and may rise to responsible positions in a specialized field like finance. The upper grades of the service, the civil administrators, correspond to the members of the "permanent brain trust" in Great Britain and for these, the Fourth Republic has established a particular channel of training through Institutes of Political and Social Science in several universities, and the National School of Administration (*L'Ecole Nationale d'Administration*), which represents one of the most interesting of modern attempts to provide people of outstanding caliber for the top positions in the administrative service.

Before the creation of the National School of Administration in October 1945, recruitment for the higher posts in the ministries was by competitive examination (written tests and an interview), but each administrative unit established its own conditions and principles. Thus while the general level was high—a prospective candidate had to have broad training in public



and private law, and a comprehensive knowledge in fields like economics, comparative government, public finance, statistics and international relations—there were no common entrance requirements. Moreover, because the candidates for the higher civil service came from the semiexclusive, specialized training schools for the public service known as the "*Grandes Ecoles*," and it was not too difficult to devise tests favoring persons of particular background, a privileged cadre developed in almost every Ministry and was widely suspected of being antidemocratic in sympathy. The establishment of the National School of Administration had behind it the fervor and high purpose of the Resistance, and thus had as its particular aim the democratization of the higher civil service by making merit, and not privilege, the way to gain the key posts in the public administration.

Entrance to the National School of Administration is by either of two sets of examinations. One set is designed for persons between the ages of 26 and 30 who have already had five years of experience in the public service. Thus, in contrast to the difficulty in the past in rising from one grade to another, a recognized channel to training for the highest posts is provided for those already in the service if they can demonstrate the requisite qualities (it is hoped ultimately to open the tests even to those without university training). The other examinations are for the graduates of the Institutes of Political and Social Sciences. (The examinations are broad enough to be taken also by the graduates of other faculties in the universities.) No Institute, it must be noted, can provide such preparation until its faculty, curriculum, and methods have been approved by the Council of State (see p. 350). The training provided by the Institutes is liberal, or general, rather than specialized, and combines theoretical studies with practical experience. Thus advanced academic training and experience within the service are the two routes to the National School of Administration.

Nothing in Great Britain or the United States exactly parallels the French National School of Administration. Its students during their three years of study are ranked as civil servants, and not only pay no fees but are paid a regular sal-

ary. For the first six months, the students are articulated to responsible chief officials, usually away from Paris; thereafter follows eighteen months in Paris, including some further practical experience, and at least one year of concentrated studies. At the end of that time, the students who have successfully completed their work to this stage are divided into four sections: general administration, economic and financial administration, social administration, and foreign affairs. The third and final year is spent in rounding out the training, and acquiring further practical experience, which includes three months in private industry for the specific purpose of providing high civil servants with more understanding of its particular problems and ways of management.

Each year the School graduates between 40 and 100 students who then go to the higher positions in the central offices of all the Ministries except Justice and Education. The Council of State, Court of Accounts, Foreign Office, Inspectorate of Taxes, and administrative and economic services also draw their higher personnel from the graduates of the School.

The new program has not gone unchallenged. Some critics fear that the National School of Administration will create a "caste spirit" among its members, and that the restrictions on entry into the school have a monopolistic character. The advocates of the plan emphatically reject both notions, maintaining that the wide variety in the backgrounds of the successful candidates (1,500 persons competed for the 140 entrance places in 1950) makes such charges absurd. There is much sense in the argument that administrators must be carefully trained, but there is inevitably some danger in making one particular school the normal route to high administrative posts. Above all, it will be necessary to keep the criteria of "merit" for entry to the school above any suspicion of political or personal influence.

The Fourth Republic has also established the Center for Advanced Studies (*Centre des Hautes Etudes*) to provide in-service training every year for about thirty outstanding administrators between the ages of 35 and 45. In their three months at the Center they study problems like administrative decentralization and the structure of the French Union, and widen

their contacts. Thus not only are they developed as specialists in particular fields, but at the same time they are brought to the attention of the government in a way which often results in promotion, even between grades. The net result of this training, coupled with the new provisions for entrance to the service, is to make the higher grades of the French civil service far more accessible to those of intelligence and all round ability, regardless of social position or wealth, than has ever been true before.

### *The Status of Civil Servants*

French civil servants have long sought a legal definition of their status. Finally, in October 1946, a comprehensive statement of their rights and duties was embodied in law. This law makes a distinction, in the first place, between those with a right to the title of "civil servant" (that is, the staffs of the ministries), and those public servants who do not have the right to the title (such as the *magistrats* in the court system [p. 380] and those in military service or in public commercial or industrial enterprises). The law defining the status of civil servants is concerned, therefore, only with the staffs of the ministries.<sup>9</sup>

The definition of status lays down broad principles in four general fields: restrictions on the private activities of civil servants, conditions of service, responsibilities and duties as public servants, and rights as members of the service.

The restrictions on private activities are only in part those placed upon British civil servants. As in Great Britain, civil servants in France are forbidden (with some few exceptions) to hold other remunerative positions. Similarly, they must have no relations with an enterprise whose operations are affected by the work of their ministry. In addition, French civil servants are not allowed to take part in any organization which might impair their independence, a somewhat ticklish provision presumably aimed at Fascist organizations but capable of being used under certain circumstances against Communists.

<sup>9</sup> Certain groups which are part of the regular government service, e.g., teachers, staffs of local administrations, members of the Council of State, and of the diplomatic service, have rights and duties similar in general to those of regular "civil servants" but with special provisions added to fit their particular positions.

There is, however, no ban in France, like that in Great Britain, on direct political activity by civil servants. On the contrary, not only may civil servants continue to run for office as they have done in the past but they may also have a leave of absence while holding political office, and subsequently return to their position in the ministry.

So far as conditions of service are concerned, equality of access to public positions is guaranteed to men and women without discrimination of any kind, a provision which may give women more chance than in the past to acquire some of the higher posts in the ministries, as women are now doing in Great Britain. Moreover, the law states that except within the same grade promotion is to be based on merit rather than on seniority, as was too frequently the criterion in the past.

Every French civil servant is formally responsible under the law for carrying out the duties of his particular office; he must obey the orders issued by his superiors; and he must adhere strictly to all laws and executive orders. The responsibility of maintaining strict professional discretion is also emphasized.

Side by side with the duties for which a French civil servant is legally responsible stand the rights which he is assured. Among *legal* rights are the right of protection by the government against suits for libel or attacks resulting from the performance of his duty (p. 393) and the long existing right of a civil servant to enter suit in any jurisdiction, in particular in the administrative courts, over any violation of the personnel rules by a superior official, or over a decision by an administrative official which might harm the collective interests of civil servants. Among *economic* rights is the right to receive a salary which is at least 120 per cent of "the vital minimum," a figure representing a subsistence wage calculated by the Superior Council of the Public Service (p. 364) on the basis of the general economic and financial situation and approved by the Cabinet and authorized by the National Assembly. Among *social* rights are the rights to family allowances and other social security benefits of generous character (p. 402). Most important in the view of many civil servants are the rights of association and representation, including the right to form

and join staff associations, or *syndicats*,<sup>10</sup> and the right to have staff members on all administrative and technical commissions concerned with conditions of service.

The rights assured to the French civil servant are comprehensive and far-reaching. They find no exact parallel either in scope or in form in Great Britain or in the United States, though both these countries provide conditions of service, particularly in relation to salaries, which are far more generous than those in France. Probably largely for this reason and because national merit systems were established earlier than in France, civil servants in Great Britain and in the United States have not sought to secure legal enactment of their status to anything like the same degree as French civil servants. Each group, no doubt, prefers its own particular position, British and American civil servants being well satisfied with the flexibility of their conditions, while French civil servants consider the legal definition of their status to be a major guarantee of their rights.

### *Unions and Strikes in the Public Service*

The most troublesome issue included in the definition of the status of civil servants is that of the *syndicats*, or civil service unions. The *syndicats* are the outgrowth of early staff organizations which fought for better conditions of employment. Strongly influenced by syndicalist doctrine, which proposed workers' control of all concerns, these staff associations sometimes aimed at controlling the work of their particular ministries (e.g., "the Post Office should be run by the postmen" was one slogan). In time the larger staff *syndicats* federated nationally into four major organizations—the General Federation of Civil Servants, the Postal Federation, the Teachers' Federation (primary and secondary), and the Federation of Public Utility Workers—

which were more moderate than some of the earlier *syndicats*. Nevertheless, the militant efforts and concerted pressures of the *syndicats*, coupled with their political agitation, roused fears that they might use their combined strength for purposes opposed to those of the government. For this reason, the right to affiliate with organizations like the C.G.T. (p. 243) has been a debated issue, not resolved *de jure* though there has long been *de facto* affiliation.

Even more tension has centered about the use of the *strike* as a means of staff pressure. According to syndicalist doctrine, organized workers should make use of sabotage and the general strike as steps towards the overthrow of the capitalist order. In a modified form this ideology has been popular among the members of *syndicats* in the government service, though the use of the strike has been relatively infrequent and usually of restricted scope. There have been a few serious incidents, however, which have strongly affected opinion. The memory of the postal and railway strikes of 1909 and 1910 (the latter crushed by calling the strikers into the army and setting them to break their own strike) has persisted ominously on both sides. On February 12, 1934, government employees joined in a twenty-four-hour nation-wide strike intended as a demonstration against Fascism. In the same year Premier Doumergue attempted, though unsuccessfully, to enact legislation which might have been used to dismiss civil servants who participated in what was defined as "unjustified or concerted interruption of their service." In 1938 Daladier used the threat of calling strikers into the army to curb a demonstration. The right to unionize was forbidden altogether by the Vichy government in September 1941. The right to strike had, therefore, to be considered immediately after liberation and under circumstances in which French labor was in a much stronger position than ever before.

The right to unionize was immediately restored after the war and was guaranteed subsequently in the legislation of October 1946. But much more difficult was the question of strikes. Prefects, Public Prosecutors, and the police are specifically forbidden to strike; for other government employees, the Preamble to the Constitution provides the right to strike within limits regulated by law—but as yet, there is

<sup>10</sup> The French make a distinction between "*le droit syndical*," which is the right to trade union organization for the defense of common economic interests, and "*le droit d'association*," which is the right to form an association with other persons for a common purpose or in a common interest, which is not as far-reaching in effect as trade union organization. French civil servants have had the right of association for many years but their right to organize into trade unions was not officially recognized until the Law on the Status of Civil Servants of October 1946. *Syndicats* of civil servants have long existed *de facto*, however.

no law on the subject. Thus such criteria as there are have been established in individual cases by rulings of the Council of State. The Council of State has made a clear distinction between strikes in ordinary activities, which are allowed, and those which affect the continuity of the national life, which are condemned. Similarly, it has drawn a distinction between a legitimate strike for professional reasons, following an open vote of the membership, and after due efforts to reach a settlement, and an unjustified strike called for political reasons, stage-managed by officials, or instituted without negotiations. In general, in the absence of a specific law on the subject, the Council of State has upheld the right of the government to take disciplinary actions against, and even dismiss, civil servants if their strike interfered with the operation of the public services, e.g., the railroads.

In practice, strikes by civil servants have not been infrequent under the Fourth Republic. In 1948, employees of the Ministries of Finance and of National Economy went on strike, as did officials of the customs service and the prefectures. In 1949, employees of the Ministry of Reconstruction struck, as did administrative personnel of the prefecture of the Seine. Even more disturbing, a warning strike of twenty-four hours was called for all civil servants on June 15, 1949, and again on June 16, 1950. Equally disconcerting was the action of the police at one point in 1950 in making a protest by deliberately disrupting traffic through enforcing the most minute details of traffic regulations. This action by the police demonstrates the most serious aspect of the situation: the fact that many government employees put their personal grievances higher than their sense of duty to their work, and even to the state. In such a situation, no law forbidding strikes has much significance. The problem remains, as always, one of morale and civic loyalty. As such, it is one of the most serious issues in France today.

#### COMMISSIONS PARITAIRES

In order to improve relations with the *syndicats* the Fourth Republic has given the rank and file of the French civil service formal representation in the machinery entrusted with the organization and functioning of the whole civil service. In every ministry, there are a number of

administrative and technical committees known as *commissions paritaires*, i.e., with equal representation of employers and employees. In this respect, the machinery is not unlike that of the Whitley Councils (p. 156), though the French system vests more power in the hands of employee representatives.

The first of the two types of committees, the administrative committees (*paritaires*), for which staff members are elected by their colleagues, have competence in questions of recruitment, promotion, discipline, and other personnel questions. The function these committees perform is hardly an innovation, however, for there used to be promotion boards and disciplinary councils, with employee representation, which did much the same thing. Both the earlier and the present bodies placed their emphasis upon erecting elaborate safeguards for the employees of the ministries. Under the law of 1946 every official is responsible for consulting the relevant committee before promoting or disciplining a particular civil servant. Moreover, the division chief of a ministry cannot transfer one of his subordinates from one type of work to another without the approval of an administrative *commission paritaire* if the transfer involves a change in residence or in the general situation of the employee. In practice, these safeguards have not always been compatible with the efficiency of the service.

The second of the two types of committees, the technical committees (*paritaires*), whose staff members are designated by the most representative of the *syndicats* and whose meetings are presided over by a high administrative official, mark more of an innovation than the administrative committees. They are concerned with practical problems of organization and efficiency, which may be referred to them by the minister or by a *syndicat*, and eventually, they are to carry through the reforms agreed upon for the service at large and thus will have managerial functions of broad importance.

To some extent the objectives of the administrative committees and those of the technical committees may ultimately conflict. The administrative committees are mainly concerned to protect the individual employee, whereas the technical committees are responsible for reform

in the interests of efficiency. The fact that both are equally representative of employees may well make the problems of adjustment easier, however, and there seems little doubt that this is the hope behind the government's administrative plan.

At the head of the structure of *commissions paritaires* is the Superior Council of the Public Service (p. 349), itself constituted on the *paritaire* principle. The Superior Council has quasi-judicial functions as a court of appeal in any issue referred initially to a *commission paritaire*. Thus to some extent, the Superior Council may replace the judicial section of the Council of State as the guardian of the rights of individual civil servants, a development proposed by the Council of State itself.

In some respects, the Superior Council seems likely to become a more effective body than the British National Whitley Council. For one thing, the Superior Council is a smaller body consisting of twenty-four members in contrast to the fifty-four members of the National Whitley Council. In the second place, instead of splitting into committees for research work as the National Whitley Council does, the Superior Council has recommended the establishment of special agencies to undertake particular functions (p. 349) and thus keeps itself free to maintain general supervision of the whole service.

Moreover, the French civil service bodies, in particular the Superior Council and the technical committees, have certain broader responsibilities than their British counterparts, in particular for proposing reforms in the interest of greater efficiency and economy. It is true that the National Whitley Council has prepared some excellent reports on special subjects (e.g., recruitment after World War II), but its mandate does not include general reform—chiefly because the British civil service is far less in need of fundamental reforms, particularly in structure, than the French civil service. Yet it may be, of course, that concentrating upon a few specific problems, as the National Whitley Council has done, will have more effect in the long run than the much broader, more general responsibilities of the Superior Council.

In entrusting extensive, semimanagerial responsibilities to French civil service agencies, which, like the Superior Council and the ad-

ministrative and technical committees, are organized on the *paritaire* principle, the French have made a bold approach to the problem of civil service reform. Perhaps in view of the importance of retaining good relations with the *syndicats*, nothing less bold would have had a chance of success. In practice, the future of the policy may well depend less on the merits of the provisions themselves, than on the degree of public-minded support extended by the employees of the ministries, and, in particular, by the leaders of the civil service *syndicats*.

#### THE STATUS OF EMPLOYEES IN NATIONALIZED ENTERPRISES

The French have not gone further than the British (p. 158) in developing new methods of selecting personnel for the recently nationalized industries and services. Moreover, the status of "civil servants" does not refer to any of the employees of nationalized enterprises. But questions of employment policies, labor relations, and rights and duties have been tackled in each of the nationalized enterprises in such a way as to develop certain characteristic arrangements.

In general, labor in nationalized enterprises occupies a position midway between the civil service and workers in private industry, having a more effective share in management than the latter (p. 401), and more unlimited union activity than the former. Most frequently, the rules governing recruitment, dismissal, and remuneration remain the same under nationalization as before. But special guarantees for union activity are provided by agreement (e.g., the union is guaranteed all material facilities, such as meeting halls, which it needs for pursuing its objects by legal means), and there is an absolute prohibition, embodied in law, against discrimination towards an employee because of union activity.

In addition, there are particular rules governing conditions of work, and conciliation machinery for each of the nationalized enterprises. The Miners' Charter, for example, which takes the place of the collective agreement in private industry, includes provisions regarding pay, holidays, hours of work, social security, and so forth. Moreover, it establishes joint disciplinary and conciliation committees at the local, district, regional, and national levels. The first two levels of committees are particularly concerned with

the enforcement of the Charter, but all may examine complaints and attempt to settle individual and collective disputes. Whether the workers themselves will respond to these provisions in a spirit of public service has yet to be fully demonstrated.

### *How Satisfactory Is the French Civil Service?*

The French civil service is in process of transition. Its departmental classifications are being merged in a general and unified system. Consolidation and reduction of personnel, reorganization of bureaus, and reclassification of grades (in response to the pressing need to cut national expenditures and in order to make every member of the service a more effective agent) provide an admirable opportunity to introduce fundamental reorganization and reform—an opportunity which is being used to achieve a much more drastic overhauling of the civil service than has ever occurred before in France.

But though administrative arrangements are being improved, no judgment can yet be made in regard to the less tangible components which in the end give the service its most distinctive characteristics. For example, high civil servants will continue to retain their great measure of power as long as ministries are unstable and, in particular, as long as ministers are shifted from department to department without being given sufficient opportunity to learn the fundamentals of their work. Moreover, all too often in the past ministers in technical departments have been most frequently shifted, when it is just these services which need particular consideration and long-range planning. In respect, therefore, to the all-important question of the relations between ministers and their chief permanent officials, political rather than administrative developments in France will be decisive.

Further, and equally important as ministerial instability in its effect on the character of the service, is the fact that French civil servants seem likely to engage in more rather than less political

activity in the future. It has always been possible for a civil servant to run for election and to retain his office until he was actually seated. Now it is possible for him to have extended leave of absence while holding an elective office and subsequently to return to his former position. French civil servants have always had a sizable block of former members in the legislature to press for improvement of their conditions, and this block is likely to increase. More serious, however, than pressure for a particular "civil service" program is the danger of injecting a heavy dose of politics into the civil service at the very moment when it is trying to free itself administratively from this influence. Particularly since French civil servants have rarely aspired to the heights of political neutrality which British civil servants are expected to occupy, direct political participation (possibly as a member of a party opposed to the policies of an incoming minister) would seem to offer a serious potential danger to the impartiality of the service.

A still further question arises in relation to political activity. The lower grades of French civil servants have long been potentially a powerful political force, wedded in the main to policies of social and economic change. With a political swing to middle-of-the-road policies or to the "right of center," will the civil service as a whole be willing to lend wholehearted support to programs representing these points of view? After the war French labor in general was willing to sacrifice some of its cherished privileges in hours of work, wages, and so forth, and civil servants joined with the rest. But again, if union leaders should oppose governmental policies in these regards, would the civil service not adopt the same line? In short, it is still far from clear that the bonds between organized labor and the civil service are not stronger than the bonds between the civil service and the government it serves. If this is true, then there is always the danger that loyalty to a group may override what should be the primary loyalty—loyalty to the whole people.

## CHAPTER 7

# Local Administration in France

The paradox of French government is that its highly democratic forms in national affairs have long been combined with centralized control over local administration. Early in the present century Lord Bryce asked, "Why trust a nation of forty million to deal with questions vital to national existence, and refuse to trust the inhabitants of departments and communes with the management of their own local affairs?" In the same spirit Paul Deschanel, a former President of France, declared, "We have a republic at the top, the empire at the base."

The history of French local administration (as it is commonly called in France rather than "local government") reflects an awareness of this paradox. The National Assemblies established a democratic and decentralized system of local government in 1789 and 1790, setting up elected councils in the *departments*, the largest local subdivisions, and also in the *communes* (including cities, towns, and villages), and placing extensive powers in the hands of locally selected executives. Napoleon completely overthrew this system, however, and replaced it with a highly centralized, administrative hierarchy, headed in each department by a *prefect* who controlled the *communes* in the area as well as the department at large and was merely "advised" by nominated local bodies and officers. Thereafter, continued efforts were made to lessen the degree of central control. Both the departments and the *communes* ultimately won back the right to elect their own councils. Moreover, each communal council achieved the right to choose its own executive officer, the mayor, who was vested with considerable power. But suggestions made under the Fourth Republic to transfer control of administration in the departments to locally elected officers have not been implemented.

Thus, local bodies still are supervised and to a considerable extent controlled by the prefect, the agent of the central government.

Local communities have been denied substantial control of local affairs for two reasons. One is the persistence of the revolutionary tradition of France as a country "one and indivisible." Decentralization, in this sense, has seemed a threat to unity. The second, while more subtle, may be equally influential. Those who control the central government find it useful to be able to control local politics. "When one is in opposition one attacks centralization," Deschanel pointed out, "but is only too happy to use it when in power. It is such a convenient instrument of domination." It is questionable, therefore, whether France will ever create what England or the United States would call "genuine" local self-government.

### I. THE RELATION BETWEEN THE NATIONAL GOVERNMENT AND LOCAL GOVERNMENTS

The persistent emphasis on central control in France has been reflected not only in the position of the prefect but also in the development of local services and the division of responsibilities in the local sphere. As in other countries, local government in France includes both the local administration of national services and the administration of the local community's own activities. But where in England local services were organized first and national control came later, the progression in France has been in the opposite direction. Local administration has developed mainly as a means of ensuring adequate



execution of services originally instituted and financed by the national government.

### **Division of Work**

It is not surprising, therefore, that local administration in France means for the most part the operations of local staffs under the direction of national officers. Sometimes, as in social insurance, these operations are supervised directly by members of the national ministry; sometimes, as in education, and in police, fire, and health protection, by the prefect. But in neither case is there much scope for local initiative.

Local activities which would more nearly parallel the responsibilities undertaken by American and British local governments are restricted in France to services which supplement national programs, are of a secondary character, or are of purely local concern.

The major field in which local units provide supplementary services is that of relief and public welfare. Departments and communes have some mandatory responsibilities in this field, e.g., they *must* establish institutions for orphans, the insane and feeble-minded, and young delinquents, and also schools for the deaf, blind, dumb, and subnormal. But they *may* also establish health and welfare clinics, and playground and sports facilities. Special aid for large needy families and expectant mothers is characteristic of the relief measures which local units extend on their own initiative. Public employment services are a relatively new addition to local powers. More surprising is the provision by many towns of nursery schools and institutions for training in architecture, art, and technical fields.

Secondary services are best illustrated by the division of responsibilities for roads which bear general similarity to that in the United States and Great Britain. The French national government builds and services all the main highways in the country; the departments look after secondary and local roads. Smaller departments often use the services of national highway staffs for their road work, but larger ones employ their own staffs.

A purely local service was long interpreted in France in a highly restricted manner and still means a service in a field which the national

government has not entered. Moreover, throughout the nineteenth century local communities were forbidden to establish services on the local level which were "in competition with private economic enterprise." This extreme by-product of a laissez-faire attitude was gradually relaxed to permit municipalities to establish their own gas, water, and garbage disposal plants. Just before World War I, towns were permitted to administer transportation and to develop electric power. After the war they were allowed to expand into the field of "municipal trading," e.g., markets, abattoirs, bakeries, so long as proof could be given that the needs of the community were not otherwise being met and that there was no exploitation of consumers.

In consequence, most French towns of any size now have municipal warehouses, markets, public baths, stadiums, botanical gardens, and libraries. More surprising to Americans, they also operate or finance municipal theaters, opera houses, and conservatories of music. The departments have no developments of this kind, their purely local activities being restricted to looking after their own public buildings and property.

### **Finance**

The powers of a body are generally determined by its control over finance, and nowhere is the weakness of French local units better illustrated than in their inadequate sources of revenue. By law their independent income is limited to a variety of small taxes, a small fraction of some national taxes, the income on public property, and profits from municipal enterprises. Thus they have no single substantial source of funds comparable to the property taxes or "rates" collected by American or English local governments (p. 164).

The relationship between central and local financial responsibilities is so complex that there is little advantage to describing it in detail. More important is the fact that the national government expects local units to contribute from their small incomes towards expenses in such fields as primary education, unemployment relief, and substantial public works. About 75 per cent of the total outlay of the departments and an even higher percentage of communal expenditures are obligatory under national law,

either as contributions towards national services or as outlay for local services which are mandatory. In return, the national government extends grants-in-aid of local services which amount to about 20 per cent of total local expenditures. But general financial arrangements have proved highly unsatisfactory and have been the subject of constant protests by local representatives. Local communities have been constantly in debt (though limits on the power to borrow and central supervision have prevented bankruptcy), the measures for aiding local services through national revenue have been generally inequitable in result and have all too often encouraged irresponsibility, and with comparatively few independent sources of revenue open to the local units, local initiative has been curbed.

Only heroic remedies can change this situation. French critics have proposed that the national government assume full financial responsibility for expenditures in education, relief, and public works; or that local units should be allowed to levy sales taxes on luxury goods or householders' taxes (which could avoid the inequalities resulting from the English system of rates by taking some account of income). But either plan needs to be coupled with a more clear-cut division between national and local financial responsibilities.

## II. THE UNITS OF LOCAL ADMINISTRATION

Not only are French local units restricted in independent functions and sources of revenue; their very character works against the development of any strong local sentiment which might lead to active pressure for them to have more influence, for with the exception of certain communes, French local units neither correspond to historic divisions nor possess much social, economic, or geographic unity.

The largest units of French local administration are the ninety-seven *departments*, of which the original eighty-three were established in 1790 by the Constituent Assembly, the rest having originated in subsequent additions to French territory. A surprising feature to a foreigner is that the departments include not only areas in

continental France but also in overseas territories. The administrative subdivisions of Algeria have long formed three of the departments, and in 1946 Martinique, Guiana, Réunion, and Guadeloupe also became departments. The extension of the status of a department to a territory is a mark of close assimilation, indeed "oneness," with metropolitan France.

The original departments in France bear no relationship to earlier historical divisions (as do many English counties) for the good reason that the Constituent Assembly which set them up was attempting to stamp out local particularism by replacing the old provincial units with new ones which would command no traditional sentiment. The only positive principle behind the boundaries of the departments was that they should be small enough to enable any person to make the round trip from his home to its governing seat in the course of a single day. Needless to say, modern means of transportation have invalidated this reason for keeping the departments so small. Moreover, modern geographers maintain that only six of the departments are homogeneous units and that fifty-nine are entirely devoid of any geographical, economic, or ethnic cohesiveness. The passage of more than a century has stirred some local sentiment in some departments (e.g., there are associations in Paris for men from departments like the Lot and the Dordogne), as there is in some few counties in the United States; but in general, they remain little more than administrative subdivisions, the domain of the prefect.

The next two units, the 280 *arrondissements* and the 3,000 *cantons*, not only inspire little popular sentiment but lack important governmental functions. The *arrondissements* once had small, locally elected councils, but these were suspended by Vichy and have not been re-established. Each is supervised now by a subprefect, whose office brings a certain dignity to the principal town of the area and also enough additional business to make the inhabitants reluctant to have the unit abolished, as has often been suggested. The *arrondissement* used to be the basic constituency for the Chamber of Deputies, and it was commonly known as the "fief of the deputy," within which he could control patron-

age and political organization. Today (p. 297) even this function has disappeared.

The canton has not even an organ of self-government, but has a certain usefulness for military and judicial (p. 384) functions and, in some places, roots in local sentiment, which have led periodically, but so far unsuccessfully, to proposals that it should be given a more important part in local government. At present, its only political function is to serve as the electoral district for departmental councillors.

The *commune* is the unit of local administration which has the soundest basis in history and local sentiment and the greatest degree of self-government. But among the 38,000 communes in France there are many which have little reason for existence. Unlike English or American local government, French local administration uses the same unit for urban and rural areas. All cities, including Paris, are communes, but so are small rural districts including sometimes only a score of houses. Nearly 30,000 of the communes have fewer than 1,000 inhabitants; 23,000 have fewer than 500 inhabitants. Certain communes cover no more than a few acres, and the average size, despite the existence of the cities and of one commune including 400 square miles, is no more than 6 square miles.

### Movements to Reform the Units

The obviously unsatisfactory character of the units of French local government has led to two reform movements: the one seeking to differentiate between the type of government and the areas of rural and urban units, and the other seeking to supplement or replace the departmental divisions by regional arrangements. The aim of the first movement is to secure more self-government for the larger cities and to regroup the smaller communes into more substantial units in the interests of efficiency and economy. The aim of the second movement is to establish a series of large subdivisions in France which would act as a counterbalance to overcentralization.

One argument in favor of *regionalism* is that France has long been covered by a series of *ad hoc* regional administrative divisions far larger than those of the departments. Under the Third Republic there were 27 Appeal Courts for jus-

tice, 18 regions for military administration, 17 academies for education, 14 agricultural regions, 11 labor inspection divisions, and so forth. Most of these areas overlapped, and single departments found themselves in a number of different regions for different purposes. Thus an inhabitant of the Department of Ardèche, for example, would have to go to four different centers for an ordinary law case, an administrative law case, a question of educational affairs, and a military matter. This meant not only personal inconvenience but also administrative confusion. The advocates of regionalism proposed, therefore, that between twenty and twenty-five regions should be set up into which all these administrative subdivisions should be fitted.

These proposals were moved out of the realm of theory by the Vichy regime. In response to the obvious need for deconcentration at that time, and to rather romantic notions of making the province the principal division, seventeen Regional Prefectures were established (six in unoccupied France and eleven in occupied France) under Regional Prefects who at first co-ordinated and subsequently directed the work of the departments in their areas through special police and economic powers. New groupings for youth, sport, health, food control, and so forth were organized on the basis of the regional areas, and older divisions, like those for labor inspection and prisons, were rearranged to fit the new boundaries. But the regions had no separate corporate being and no budget, and the experiment was not particularly successful.

After the liberation, reconstruction work was organized through the system of regional divisions, and early in 1945, boundaries were fixed for eighteen regions (one more had been added for the Alsatian departments), each grouping a number of departments around an important city like Lyon, Toulouse, Bordeaux, or Rouen. The eighteen Commissaires had special powers, extended and defined in 1945 as being "to stimulate, control, orientate, and co-ordinate the activities of the Prefects and of the chiefs of the regional services." Like the Regional Prefects, however, they were concerned with exceptional circumstances, in particular with public order, and, if anything, they too ascerbated relations between the departments and the central government by providing an intervening layer of au-

thority. In any event, they were short-lived, for in March 1946 the Constituent Assembly decided to abolish the regional divisions and to return to the customary units of local administration.

What is noticeable in these experiments, and in the establishment in 1948 of the so-called "Super-Prefects" (see p. 371), is that they make no attempt to grapple with the basic issue of regionalism, that is, of establishing areas which are relatively self-sufficient economically, or have geographical and social homogeneity. They are, on the contrary, mere administrative groupings and, as such, have not answered France's need for local units which fit modern economic conditions.

### III. THE ORGANS AND OFFICERS OF LOCAL ADMINISTRATION

In England there is only one main organ of local government in each unit—the council—and, except for minor differences of membership, the structure of each council is the same regardless of whether the unit is an administrative county or a rural district (p. 167). But in the two most important local units in France, the department and the commune, there are three centers of authority: the prefect (who is the representative of the central government), the locally elected council, and the council's elected executive (known as the president of the council in a department and the mayor in a commune). Moreover, there is a considerable difference in this tripartite relationship in the department and in the commune: the prefect having a stronger position in the department than in the commune, while the local executive, the mayor, has a stronger position in the commune than the president of the council has in the department.

#### *The Role of the Prefect*

The prefect is the dominant figure in French local administration. As the link, and sometimes the buffer, between the central administration and the local area, "he concentrates in his own person," as a French authority once wrote, "the

perpetual conflict of authority and freedom. . . . He is at once the agent of the government, the tool of the party, and the representative of the area which he administers."

#### THE AGENT OF THE NATIONAL GOVERNMENT

The most important role of the prefect is as the agent of the national government in the department. Traditionally, the prefect has been appointed by the Minister of the Interior and remained responsible to him throughout his career. The power of appointment is now vested officially in the Council of Ministers, but the Minister of the Interior still retains a preponderant influence.

Prefects are usually selected by promotion from certain grades of the administrative service, particularly from the subprefects who act as their chief assistants and have semi-independent functions within their own area, the *arrondissement*. The prefects hold important positions and normally remain in office until they retire. But they are essentially political rather than administrative appointees and they are expected to respond to the political purposes of the minister. They may be shifted at will from one area to another and are occasionally "demoted" to less important areas or even positions, though almost never dismissed. But their chances of promotion to the more important departments depend on the extent to which they obey the will of the government.

The prefect acts in any instance where the state is represented in its corporate capacity in departmental affairs, e.g., signing a contract for public works or in a suit affecting state agencies in the administrative courts. He is also the titular head of the department, responsible for ceremonies in case of official visits.

But the major functions of the prefect are administrative. He has the formal power of appointment of officials in the various state services operating in the department—the schools, welfare agencies, road and bridge services, penitentiaries, postal and telegraph stations, and so forth—though his discretion has been limited by the establishment of a competitive merit system covering almost all posts. (In England the appointments are made by the councils which can establish their own standards except for certain officials.) The prefect is also responsible for

maintaining general supervision over local administration of national services.

In relation to the local councils in the department and in the communes the prefect has both direct and residual responsibilities. He must watch for any violation of national law, in particular laws relating to the press, public meetings, and theaters. In situations of disorder or danger the prefect has independent power to act. Dangerous aliens are in his special sphere of responsibility and, since 1935, he has aided in apprehending and investigating persons charged with crimes.

More startling from the English or American point of view is the power of the prefect to supervise the work of the councils in any matter of national concern. This power is called *tutelle administrative*, administrative "guardianship," and under it the prefect has the right to dissolve illegal meetings of the departmental council (e.g., when the council discusses topics not within its jurisdiction), suspend communal councils for improper activities and recommend their dissolution or the removal of mayors (in 1950, for example, five communal councils were dissolved, one mayor suspended, and four Communist mayors dismissed), and add to the budget of a commune mandatory expenditures which the council has failed to vote.

Though the prefect can issue ordinances having the effect of law, they must be on matters specifically covered by national statutes, for he has no blanket authority. Appeals against prefectural ordinances receive careful consideration by the Council of State, and they can be nullified if they do not adhere rigidly to the letter of the provisions of decrees or laws. But apart from this restriction, the prefect may issue orders in his capacity as agent of the national government which are binding not only on the administrative services under his direction but also on the general public.

The most important postwar development for co-ordinating the work of the ninety prefects of metropolitan France is the appointment of eight *Inspecteurs Generaux d'Administration en Mission Extraordinaire* (IGAME), popularly, if somewhat erroneously, termed "Super-Prefects." Like the earlier Regional Prefects and Regional Commissaires (p. 369), the IGAME were set up because of security needs made obvious by the

nation-wide strikes in November-December 1947. In time of crisis the IGAME, rather than the military authorities, wield ultimate control. The usefulness of the IGAME was demonstrated shortly after their establishment in March 1948, not only during the serious strikes in the coal mines of October-November 1948 and those of the railroad workers in February 1950, but also during the disastrous fires in the Landes, in September 1949, which affected a number of departments. In such emergencies, the IGAME exercise special powers, received by special delegation, ordinarily possessed only by the Minister of the Interior. This is, in fact, a characteristic feature of their position for, in contrast to the earlier experiments in which certain powers belonging to the prefects were transferred to the regional officials, the IGAME have no regulatory jurisdiction or specific powers, except where specially designated, and thus take no authority away from the prefects in their areas. This means, moreover, that the IGAME have no special regional cadre or staff of their own: "ni cabinet ni adjoint," as is said, an important factor in promoting the generally co-operative relations between the IGAME and the prefects.

The original intention was to have the IGAME reside in Paris in order that they would have more constant access to the ministries, and also be less susceptible to local influence and gain more perspective on the needs of their departments. Increasingly, however, the IGAME are being stationed in their particular areas, and in several instances, their functions have been combined with those of the prefect in an important center. This makes it easier for the IGAME to organize consultative committees of the prefects in their areas, as well as to have monthly meetings with each prefect. Even when living in the local areas, however, the IGAME also have monthly meetings with the Minister of the Interior, and keep in close touch with the ministries which operate services in the local areas. This latter development may well be one of the most important of the services of the IGAME, for national ministries have not only had so much direct supervision over the services in their fields in recent years as to leave the prefect with relatively little to do in regard to them, but also on occasions have instituted somewhat

conflicting programs. Consultation with the IGAME is providing more co-ordination of national programs in the local areas, a move long overdue.

The establishment of the IGAME is a move not towards decentralization of authority, but rather towards deconcentration. It facilitates co-ordination of the work of the prefects, as well as of national ministries in local areas. Since there is no element of compulsion involved, no hostility seems to have been aroused, though there is always the possibility that if the IGAME become too useful they will arouse jealousy. So far, however, they have proved to be unusually useful links between the central government and the prefects.

#### THE PREFECT'S POSITION IN THE GOVERNMENT OF THE DEPARTMENT

Under the Third Republic the prefect was not only the agent of the national government in department and commune; he was also the head of the department's own government. As such, he prepared the budget, drafted ordinances, saw to the execution of the decisions of the council, allocated funds to the bureaux, and pre-audited expenditures.

These functions placed the prefect in a position from which he could virtually control the operation of all local matters. The extent of this power was given dramatic illustration when the Vichy government made use of the prefectural system to take over control of local affairs. To avoid such a danger in the future, the Communists and Socialists in the Constituent Assembly favored replacing the prefect as the executive officer of the department by the president of the departmental council. Men of long experience, like Herriot, the leader of the Radical Socialists, felt it would be unfortunate, however, to vest executive powers, like the appointment of department officials, in the hands of the president of the departmental council, lest the local administration be brought too much under local political influence. Moreover, as Herriot pointed out, the provisions in the Constitution really required both men to supervise each other. In practice, the development envisaged by the Constitution has not been translated into law. Even if it were, it would not have great significance,

for departments have decreasing importance both in economic and administrative functions.

#### *The Departmental and Communal Councils*

Because of the dominant position of the prefect in French local administration, the council, the local organ of self-government in both department and commune, has relatively much less importance in the management of local affairs than has an English county or county borough council. This situation exists despite the fact that Article 87 of the Constitution of the Fourth Republic declares that departments and communes "administer themselves freely through councils elected by universal suffrage."

To embody in the Constitution the principle of election of local councils is itself significant, however, for the movement for more local self-government in France has concentrated upon securing this principle. Most people believed that the election of councillors had been fully established in the course of the nineteenth century and were correspondingly shocked when the Vichy regime abruptly terminated the practice. The constitutional guarantee of the right of election of local councils is the Fourth Republic's answer to Vichy's move.

#### ELECTIONS

The election of councillors in departments and communes provides the one opportunity for the people of those areas to vote for local representatives. Councillors for departments are elected in the cantons by majority vote with a second ballot where necessary. In the communes a distinction has been made between communes with less than 9,000 inhabitants, plus the communes of Algeria, which elect by majority vote and use a second ballot where necessary, and communes of more than 9,000 inhabitants and those in the Department of the Seine (Paris), which use proportional representation. These regulations represent an uneasy compromise between the Socialists (most of whom have swung away from their old support of proportional representation) and the Communists and M.R.P. (who favor it). Department councillors are chosen for six-year terms, half being elected every three years. The council of the commune is elected every four years and all at one time.

As might be expected, national party rivalries play a considerable role in local elections, except in smaller places, which are likely to be more affected by local personalities. Particularly under the Fourth Republic, local elections have been taken as an indication (not always reliable) of national sentiment, as with the "swing to the Left" in the communal elections of April and May 1945 and the strong support for De Gaulle in local elections in the autumn of 1947, which the latter insisted demonstrated that new elections should be held for the National Assembly (see p. 337).

#### THE WORK OF THE COUNCILS

But despite the very considerable interest in local elections, the councils themselves, whether in department or commune, do not undertake many activities. They discuss rather than act, and only on matters of strictly local concern do their resolutions have the force of law. Their chief function is to supervise the work of the prefect and their own locally elected executive. They keep a particularly strict eye on the expenditure of funds and on the adherence by the prefect to the letter of the laws under which he is acting.

#### COMMITTEES OF THE COUNCILS

As in England, much of the work of a council is done through committees. But since French councils are supervisory rather than active bodies, the same is true of the committees.

The department council has a number of *standing committees* which deal with the various subjects of departmental concern. The most important one is concerned with finance and is known as the department committee. It consists of four to seven members who remain almost constantly in session, though the council itself meets only twice a year for a maximum of six weeks. In addition to supervising the execution of the budget, the department committee checks the records of department offices and approves contracts before they can be signed. It also has power over certain proposals of the communes, such as those which affect local roads. When necessary, the general council may delegate powers to the department committee to undertake duties

which it would perform itself if it were in session.

The communal council does not have standing committees like those in the department but *special committees*, which undertake study of one particular subject. These committees are chiefly supervisory; they do not work as closely with the local officials concerned with their subject as does an English committee (p. 170). Partly because of their specialized nature, no committee of the communal council has acquired as much relative importance as have department committees. But even the department committees have not as much direct influence as the committees of an English council in a unit of relative size.

#### The Local Executives

Whatever power is exercised by locally elected persons is chiefly in the hands of local executives rather than the council as a whole. Neither the French nor the English follow the American practice of direct election of the local executive. Rather, the council elects that officer from among its own members. In the department his title is *president of the council*; in the commune, *mayor*. The president of the council is selected for three years (formerly for only one year), and even under the Fourth Republic has not gained much authority. The mayor is elected for a four-year term and has long had a position vis-à-vis the council which is somewhat analogous to that of a mayor in an American city. The analogy must not be pushed too far, however, for even the mayor of a large French city is supervised closely by the prefect.

#### THE NATIONAL POSITION OF FRENCH MAYORS

The particular distinction of French mayors has arisen from their national influence rather than their local power. There is no barrier in France to combining local and national office, and under the Third Republic the "Mayors' bloc" in the Chamber of Deputies, usually numbering between fifty and eighty persons, exercised a strong collective power of persuasion on behalf of local interests, such as increased relief and public works. Moreover, as a French authority once wrote, "France has had more



great mayors than prime ministers." The most distinguished figure among French mayors, Edouard Herriot, has filled both offices, being Mayor of Lyon for nearly forty years, concurrently a deputy, three times Premier, and subsequently President of the National Assembly (see p. 314).

With few exceptions, however, only mayors of important cities and towns wield such national influence, and only they, through their national association, are likely to retain that influence in the face of the new electoral provisions (p. 297) which, at least in those parties which are highly centralized, give them less chance of securing seats in the National Assembly than in the former Chamber of Deputies. Further, only these mayors have much importance in the local sphere. In small communes the mayor is usually an important farmer or the local doctor; he can handle the relatively few tasks arising in his village with the help of a secretary (usually the village school teacher, who is only too happy to add to his scanty salary) and the village policeman. But in cities like Lille, Bordeaux, Marseille, or Rouen, where there are scores of departments and services and thousands of municipal employees, the mayor is an important figure.

#### THE LOCAL WORK OF THE MAYOR

In the communes the mayor undertakes the functions of a local executive, selecting his assistants (*adjoints*) to head the municipal bureaus and appointing all other municipal employees. In practice, however, this power is less far-reaching than it seems since bureau heads are usually continued in office even if mayors change and lower officials are protected by strict personnel rules and by tenure. In addition, the mayor prepares and executes the budget, administers the police power, which extends to all measures necessary for public order, safety, and health, applies council resolutions, and issues such ordinances as come within his discretion, e.g., determining local speed laws, inspecting food, or licensing dogs.

Though the mayor of a large town has many more responsibilities than the mayor of a village, he is, nevertheless, supervised more strictly by the prefect. For the French proceed on the general assumption that the larger the

commune, the greater the interest of the national government in the preservation of order. The chief municipal police officer (*commissaire de police*) in communities of over 5,000 is appointed not by the mayor, as in smaller places, but by the Minister of the Interior. The police chief takes orders from the mayor in local matters, but if the population exceeds 40,000 the municipal police force must follow specific regulations laid down by the Ministry of the Interior.

In a few matters the mayor acts not only as a local executive but also as an executive agent of the national government. As such, he publishes and applies national laws which affect the local community, keeps records for national bureaus (e.g., registration of births and deaths, and maintenance of voters rolls), collects local taxes, and so forth. But if he should fail in performing any of these duties, the prefect intervenes.

#### THE PREFECT AND THE LOCAL EXECUTIVE

Such checking and counterchecking of each other by national and local officers results in an uneasy balance of power at best which is generally weighted to the side of the prefect except when intense party fervor gives temporary strength to the departmental council, and thus to its president, as has happened in some pro-Communist areas. Otherwise, the prefect's relative permanence of tenure places him in a very strong position in relation to more temporary office-holders. Moreover, in moments of emergency, the prefect can assume almost complete power in any area as the agent of the national government, and this residual authority works against developing the strong sense of responsibility for local activities which would be necessary to counterbalance the long tradition of centralization. It remains true that there is strong pressure from time to time to provide more local autonomy, but the chances of success are slight.

#### IV. THE LOCAL GOVERNMENT OFFICIALS

Because national supervision of their activities is so extensive and so detailed, local officials in

France have somewhat less influence than in England. Nonetheless, the quality of local administration depends on their ability, and the general standards maintained throughout the local services compares favorably with those in England.

It is largely due to the national government that French standards for local officials are as high as they are, for since 1930 the national government has insisted that each local unit must either have its own merit system or accept the civil service rules designed for local administration by the Council of State. With the exception of a few executives at the top and the ordinary laborers at the bottom, all local officials are now selected by open competitive examination. These tests stress general educational qualifications and, in consequence, there is less differentiation between officials in the higher ranks and those in the lower than is true in English local government. Some observers believe that the emphasis on general educational qualifications rather than on specialized knowledge makes the chief official in the permanent service, the *secrétaire de la ville*, a more useful co-ordinator of local activities than is his "opposite number" in England, the town clerk. It is likely, however, that such effective co-ordination is at least as much due to the more limited functions and stricter national control of the French system.

The rules which govern the positions in the local services are designed to provide security rather than to foster initiative or efficiency. Promotions and salary increases are too rigidly regulated to permit outstanding employees to advance quickly; but at least favoritism, which used to be prevalent especially in the municipalities, has been curbed. Strong staff organizations have instituted many other safeguards for the local employees, particularly in cases of disciplinary action; such cases must be considered by regularly constituted councils which can impose only a carefully specified series of penalties.

## V. THE GOVERNMENT OF PARIS

As far as population is concerned, Paris is relatively far less important within France than

London is within Great Britain, for the French capital contains only about one-fourteenth of the French people while the British capital includes nearly one-sixth of the people of Great Britain. But Paris, like London, is the economic and cultural center of its country. Moreover, Paris inspires a particular emotion in all Frenchmen (and in many Americans) because of its beauty and perhaps also because it has been the center of every major revolutionary movement in France's history.

This latter aspect of the history of Paris, which illustrates so vividly the exceptional influence on national politics of the sentiments and reactions of the Parisians, has led the highly realistic French to institute even more direct control over it by the national government than in the case of other French cities.<sup>1</sup> This control over Paris is exercised by two prefects, one in charge of administration, and the other in charge of police. These prefects do not belong solely to Paris but to the Department of the Seine, within which Paris lies, but the city is so obviously the most important part of the department that the two prefects concentrate their attention upon it.

The role of the prefect in charge of administration, the Prefect of the Seine, is tripartite: he is the agent of the national government, head of the departmental government, and "Mayor" of Paris. He handles all administrative services in Paris (except police), and also prepares and executes the budget. The Prefect of Police controls the police for both city and department. The unusual centralization of authority in him is intended to prevent outbreaks of violence in Paris, or to handle them effectively when they take place, but the outcome has not been noticeably successful.

Although Paris is even less free to run its own affairs than other local units, and is, indeed, the most striking example of French centralization of authority over areas, the government of the city is not completely centralized, nor are Parisians entirely without popular

<sup>1</sup> The American capital city, Washington, D. C., is under still stricter national control than Paris, a control exercised by the national legislature, and Washingtonians are even disenfranchised. But Washington is not, like London and Paris, the financial, economic, cultural, and spiritual nerve center of the nation, and thus comparisons are not particularly significant.

representation. Paris itself is divided into twenty *arrondissements*, each with local headquarters and a mayor. The mayors are appointed by the national government, however, and do little more than serve as agents of the prefect. But the city does have an elected council, consisting of ninety members, four to seven of whom are chosen by each *arrondissement* for four-year terms. But though the council has its own president, its budget needs the direct approval of both the Ministers of Finance and the Interior, and its policy-making, which is exercised largely in the field of welfare and relief, is closely restricted. In addition to the Council of Paris, the Department of the Seine has a council (which consists of the members of the Paris Council and fifty additional members elected by the cantons of the suburban areas of the department), but this council also is limited in its activities.

### Conclusion

To the American or English observer the degree of centralization in France is disturbing because it leaves so little scope for locally elected representatives to undertake that active admin-

istration of local affairs which Anglo-Saxon peoples have long believed to be of great importance for a lively and sound democracy. True, French local government is less authoritarian than it appears to be at first glance. Local councils and local elected executives make sure there is no arbitrary exercise of power by the national officials and, particularly in the larger towns and cities, carry a considerable measure of responsibility for local projects. But it is also true that there is relatively little chance for either the departmental or communal councils to display much initiative.

At the same time, unification of national policy is made much easier when there is a close alignment of local and central policies. For this reason, it is hardly surprising that French institutions of local administration have been copied far more widely by other countries, particularly in Europe and Latin America, than the forms of English or American local government. Nor is there any reason to suppose that the French themselves wish radically to change their system, though they may well introduce further reforms in the interests of efficiency.

## CHAPTER 8

# French Law and the French Courts

### I. FRENCH CIVIL LAW

Much of the world has done French law the honor of imitation. Where English common law spread only to those countries colonized by the British, French civil law has become the pattern for many Continental European and Latin American countries. Countries like Iran, which seek in modern times to supersede local customs by a unified national body of law, turn naturally to the codes of French civil law, which are the product of a similar need.

The legislators of the revolutionary period in France found no more important expression of their common purpose of national unity than to create an integrated, uniform system of laws, for the mosaic of national, regional, and local laws existing in pre-Revolutionary France had led to utter confusion. In the South, the principles of Roman imperial legislation still prevailed in 1789, while in the North there were many systems of customary law embodying feudal and Frankish principles. Voltaire declared in the middle of the eighteenth century that a traveler crossing France had to change laws more often than he changed horses. A common national system of law was seen to be essential for binding France into a unified state.

The legislators of the revolutionary period had a further and equally imperative reason for restating legal rules and principles: they were carrying out a great social and economic revolution. The antiquated land laws, the privileged position of the Church, the hunting rights of the nobility were swept away in an early outburst of democratic fervor. But traditional criminal procedures, the penal code,

and the rules governing the relations between individuals remained and were far from conforming to the statement of individual rights embodied in the Declaration of the Rights of Man and of the Citizen. Thus a drastic overhauling of legal rules and principles was imperative.

Overhauling and systematizing the legal rules affecting every aspect of life was a monumental task, however, and the legislators of the revolutionary period were able to make only a beginning. In 1791 a penal code was drafted; in 1795, a code of criminal procedures. Work began on a civil code, but only three incomplete drafts had been made by 1800. The vast enterprise of consolidating all French law was continued by French jurists, however, often under the personal direction of Napoleon, whose administrative genius and, less fortunately, authoritarian views contributed to the final form of the codes. In 1804 the Civil Code appeared; in 1806, the Code of Civil Procedure; in 1807, the Commercial Code; in 1808, the Code of Criminal Procedure; and in 1810, the Penal Code. Together, they formed the *Code Napoléon*, a comprehensive, systematized body of laws covering all cases likely to be brought to the courts. As revised, supplemented, and enlarged in response to changing conditions, the Napoleonic codes constitute the law of France today.

### Code Law

The characteristic feature of French law is its codified form. The requirements of the new society ushered in by revolution led to many new and advanced legal rules. But the principle

of codification was not new. It had been embodied for centuries in the codes of Roman law, which were themselves the result of the work of generations of Roman jurists who transformed the ancient tribal laws of the city of Rome into a great unified body of laws, shaped by Stoic and Christian conceptions of justice, as well as by the needs of a great empire. Roman law, which had been extended to France after the Roman Conquest, survived in the southern part of the country (as it did not in England) after the breakdown of Rome's political authority. French kings later found those parts of the Roman law which exalted the authority of the state and the ruler a useful weapon in their struggle to reduce the power of the Pope within France and to bring their own powerful vassals under control. And though the French kings never succeeded in their efforts to establish a national law, they managed to enforce a number of royal ordinances throughout the country and to get most of the regional customs codified in the sixteenth century. It is not surprising, therefore, that when national law was established, it should have been presented in codified form on the pattern of Roman law.

#### INFLUENCE OF ROMAN LAW

Roman law influenced the substance as well as the form of the Napoleonic codes. Its emphasis on centralized authority rather than on the interests of the individual fitted the new French nationalism, though it might seem to conflict with its individualism. The paternalism so evident in the provisions of Roman law was reflected in many of the provisions of the codes. The greatest influence, however, was the practice of relating the rules on particular subjects to general principles of justice. The judges who developed the English common law cited specific precedents rather than abstract principles of right as the basis for their decisions, however much they might privately be influenced by the latter. The jurists who prepared the French codes, like those who had prepared the great Roman codes, often prefaced the legal rules on a given subject by a statement of the basic principles on which they rested.

#### THE CHARACTER OF THE CODES

The codes reduced and consolidated the laws in their fields into relatively small compass. The Civil Code, for example, dealt with civil status, marriage and divorce, ownership, domicile, guardianship, contracts, wills, torts (such as trespass, slander, deceit, assault), and so forth, and comprised 2,811 separate articles, each framed with a precision of language and clarity of expression so remarkable that one of France's greatest writers, Stendhal, is said to have read a few articles of the code every day as a lesson in style.

The articles of the codes provide the basis for judicial decisions: they are the fundamental source of reference for judges in making a decision in any given case. This practice marks the fundamental distinction between "code" and "case law." Even in interpreting a statute, the judges in Great Britain and the United States refer to earlier decisions of other judges in similar cases. In France, however, judges acting under code law are supposed to base their decisions on the code. But just as Anglo-American judges sometimes interpret earlier cases in such a way as to support their own concept of justice, so French judges often are tacitly influenced in their application of principles by earlier decisions.

The codes cannot, of course, cover all eventualities. Conditions change and new laws must be passed to bring the rules governing community action into line with community needs. Thus while the codes remain the basic statement of law in a particular field, a new statute must be given full weight as the most recent statement of law by parliament. A judicial decision will take into account, therefore, all the statutes in a given field, whether or not they are embodied in the code. Some of the advantages of code law disappear when there are many isolated statutes which must be taken into account, in addition to the original codified statement of rules. As a result, it is sometimes necessary to undertake a rather extensive recodification prepared by trained jurists and passed in the form of a statute by parliament. The Code of Criminal Procedure, the Penal Code, and the bankruptcy provisions of the Commercial Code had to be reworked

as early as 1832. Public standards changed markedly during the nineteenth century, particularly in these fields, and two more revisions of criminal and penal law were necessary before the end of the century. The Civil Code was reworked and reissued in revised and extended form in 1904 on the hundredth anniversary of the original code. Less extensive revisions take place more frequently. A comprehensive revision of the Civil Code is now in progress.

#### THE ROLE OF THE JURISTS IN THE MAKING OF LAW

Code law appears to do away with the influence of judges in the making of law, since ostensibly a judge's decision in a particular case has no influence on other judges.<sup>1</sup> But since the most highly trained French jurists do the work of preparing and revising codes, France, in this sense, has jurist-made law.

The codes are laws, but even more than most laws they must be drafted with the greatest care. They are a distillation of the essence of the laws on a particular subject. They acquire the force of binding rules through the authority of parliament; but they acquire their wording and emphasis from the jurists who prepare them. It is always open to parliament to insist on modifications in the draft presented to them before they give the code the force of law, but this has never been done.

#### THE ADVANTAGES OF CODE LAW

There are two obvious advantages to code law: its easy accessibility and its uniformity. English and American common law must be sought in the hundreds of volumes of law records and digests. French civil law is embodied in a comparatively small number of books. When the Shah of Iran telegraphed Paris to ask for the codes, a selection of commentaries, and a commission of French jurists, he was asking for all that was necessary to establish a new system of national law for his country.

This does not mean that the ordinary citizen can apply the rules of the French codes as

easily as a jurist. The French have always maintained that only professionals should interpret legal rules; they have no group which is comparable to the unpaid and untrained English Justices of the Peace. The existence of the codes does mean, however, that it is not necessary to spend a lifetime studying earlier cases in order to become a judge. The justification for drawing the English judiciary from the comparatively restricted profession of barristers is that case law must be learned through long experience. Code law is so much more accessible that anyone with legal training can make use of it. This fact has a direct influence on the size and character of the French judiciary, which includes about 3,600 members with ages ranging from 25 to 75 (in contrast, the English judiciary—apart from the Justices of the Peace—numbers only about 100, all of mature age); and the large size of the French judiciary means that French justice can be decentralized to a degree which contrasts sharply with the centralization of the English court structure in London.

#### THE DISADVANTAGES OF CODE LAW

There are, however, certain disadvantages to code law. Most important is its lack of flexibility. The codes lay down principles which should be applied under all circumstances. Case law, in contrast, modifies the judgment of parliament, which must deal with broad principles and rules, by the judgment of the jurist, who is dealing with cases which arise from day to day. The judge in the English legal system works from the particular towards the general; the judge in the French system works from the general to the particular.

Each approach has advantages for special types of cases. There are certain fields like contracts, promissory notes, or wills in which written documents predominate. Here general and comparatively rigid rules can be applied over and over again without working an injustice. But in questions of personal relations and human conduct flexibility, rather than exactitude, contributes to justice. In such fields the long, slow process of constant change characteristic of case law seems especially suited.

French and English law are not so different, however, as these comparisons might seem to

<sup>1</sup> The Court of Cassation is the highest authority in France for the interpretation of particular points of law and, in practice, its decisions are accepted as binding by all members of the judiciary, see p. 388.

suggest. Both England and the United States have codified the law in particular fields, and they may extend the practice. And the regular French courts make use of precedents, though not to the degree of English judges, who observe the rule of *stare decisis* (i.e., the binding force of precedent) much more rigidly than does the American bench. French administrative courts depend almost entirely on case law. France and England may well expand these applications of each other's characteristic approach to other fields.

### *Legal Systems as a Product of History*

It is important to recognize, however, that both systems arose historically and in response to particular conditions, not to abstract conceptions. England developed a structure of national law centuries before France. The English common law system was considered "complete," i.e., it could handle any kind of case, by the middle of the thirteenth century (p. 176). The contributions of equity and statutory law were additions made as need arose, and they were woven into a system of laws which was unified despite its different strands. Since England already had a national legal system, there was no need to construct one in modern times.

France, however, lacked a national system of laws at a time when national self-consciousness among the people coincided with revolutionary changes in economic and social standards. It had to create quickly what the English had built up gradually over hundreds of years. In this task the example of the Roman law was a signal help. By adapting its forms to their needs, France and other countries have built up the second of the great modern legal systems.

## II. THE MAGISTRATURE

The English and the French judicial systems differ most sharply in their methods of selecting the judiciary and the relationship of the judiciary to its administrative officials. English judges are drawn from the legal profession, as we have seen, and only from that section

which has been "called to the bar," i.e., the barristers, a fact which makes for close harmony between lawyers and judges. But in France a young man must decide at the beginning of his career whether he will be a lawyer or a member of the judiciary: there is no interchange between the professions. Moreover, a member of the judiciary, or *magistrature*, is not quite as independent as an English or American judge, since he is an official of the Ministry of Justice and is dependent on a semipolitical body, the Superior Council of the Magistrature, for his appointments and promotions.

### *The Selection of the Magistrats*

The French judiciary, however, does not lack either ability or learning. To become a *magistrat*, a candidate must have a university degree, serve a short period of apprenticeship in the courts so as to become acquainted with their administration, pass a competitive qualifying examination (unless he is fortunate enough to be among the one-quarter of the applicants who are admitted on nomination with the approval of the examiners), be twenty-five years old, and be appointed by the President of the Republic on the recommendation of the Superior Council of the Magistrature.

Prior to the Fourth Republic, the appointment of a *magistrat* was made by the Minister of Justice and, in consequence, political considerations played all too great a role in judicial appointments. The establishment of the *Superior Council of the Magistrature* by the Fourth Republic, and the transfer to it of the decisive influence over most appointments, mark a determined effort to free the French judiciary from political influence.<sup>2</sup> The Superior Council includes a well-balanced combination of political and professional members: six of its fourteen members are chosen by a two-thirds vote of the National Assembly from outside its own membership, four are professional magistrates chosen by their peers, two

<sup>2</sup> During the debates of the Constituent Assembly, the Communists pressed hard for the election of judges but were defeated by the Socialists and M.R.P., who made great use of what they considered the unfortunate results of the practice in American states.



are selected from the legal profession by the President of the Republic, and the remaining two are the President of the Republic himself and the Minister of Justice. It is true that slightly less than half of the members of the Superior Council must be drawn from the *magistrature* and, therefore, there is a slight possibility that the Superior Council might become subject to partisan political influence. The first appointments to the Superior Council indicated, however, that the National Assembly was determined to appoint men of the highest caliber to the Superior Council and as long as this continues, the Superior Council will provide an important safeguard of the independence of the French judiciary.

### The Work of the Magistrature

#### ON THE BENCH

Though the *magistrat* may begin judging cases soon after he receives his appointment to the judiciary, and therefore after relatively little experience compared with that of English judges he does not have as heavy responsibilities at any time as fall upon judges in England and the United States. In the first place, since the rule of precedent, or *stare decisis*, does not hold strictly in France (except for the decisions of the highest legal authority in France, the Court of Cassation), a *magistrat* is relieved of the burden of feeling that his judgments will affect other cases. Even more significant is the fact that no *magistrat* of the regular courts takes the full responsibility for a verdict, as English and American judges commonly do, since in France, cases in the regular courts are always decided by at least three judges.

The reason for this collegial principle might seem to be the wide variation in the amount of experience possessed by France *magistrats*. But it arises more directly from an old fear in France that a single judge might be susceptible to influence—*juge unique, juge inique* (a single judge, an unfair judge) is a proverb—and from the belief that several minds are better than one in reaching a balanced verdict. This practice of having a number of judges agree on a decision has some disadvan-

tages, particularly when, as in the sections of the Court of Cassation, there are sixteen who must reach a common opinion. On the other hand, the French use no juries in civil cases, and restrict them to only the most serious criminal cases, so that there seems more reason not to depend upon a single judge.

The collegial principle has not gone unquestioned, however. Some people criticize the expense involved in having at least three judges in every court, particularly when there are so many courts, the net result being as already mentioned, that there are thirty-six judges in France to every one in England. In January 1945 the collegial principle was provisionally renounced by the French government, but the results of this abrupt action were not good. Civil procedures were slowed up and criminal justice became less effective. As a result, the action was reversed. Critics of the collegial system now suggest that if a permanent change should be made in the future, it should be accompanied by provisions whereby a single judge could refer a case to a bench of judges if he felt it advisable.

#### IN THE MINISTRY

The work of the French judiciary, however, is not only to judge cases. *Magistrats* also staff the Ministry of Justice at the higher levels. The work done in these positions does not differ materially from that of higher civil servants in any ministry, being concerned with the organization, functioning, and staffing of the courts, and all other matters of detail connected with the administration of justice. One of the special advantages of holding posts at a high level in the ministry used to be the personal contact with the minister, which was long the surest way to acquire promotion to still higher offices. The transfer of the decision on promotions to the Superior Council of the *Magistrature* has done much, however, to nullify this particular advantage.

#### IN THE PARQUETS

Another kind of work undertaken by the *magistrats* is to staff the *parquets*, the departments of the attorney general, which are attached to every court but collectively form a special division in the Ministry of Justice known as the

*ministère public*. The *parquet* represents the interests of the state and has a monopoly of the prosecutions in criminal cases.<sup>3</sup> The closest parallel to its work in England is that of the Director of Public Prosecutions, while the district attorneys in the United States perform the same function as far as criminal prosecutions are concerned. But in so far as the *parquet* also officially represents the interests of the state in all court proceedings, its work is distinctively French, as is also the conception, which gives the *parquet* so much importance, that at all times the state has an active and direct interest in the way in which the administration of justice is carried on.

The members of the *parquets* form a hierarchy within a hierarchy. They operate, of course, in every court, but the members of the *parquets* in each of the twenty-seven Appeal Court areas are directly subordinate to the *Avocat-Général* of that area, who in turn is directly under the Minister of Justice. In contrast to the judges, the members of the *parquets* have no independence. They may be moved around or dismissed from their particular positions at the will of the Minister. Moreover, the *parquet* officer has relatively little independence of action in the courts, since the written brief which he presents in court must be framed in the terms which he has been instructed to use by his *Avocat-Général*. Curiously enough, he may deliver an oral address at the end of the trial which expresses his own opinion and may contradict the written brief which he has presented. However, the speech rarely has much effect.

Work with a *parquet* is popular, however, because it gives the opportunity to demonstrate ability through preparing a prosecution or a defense of the interests of the state. Members of the *parquet* are often called the *magistrature debout* (standing magistrates) because they rise when they speak in court, whereas the judges remain seated and are called the *magistrature assise*. The higher offices in a *parquet* are among the most coveted in the whole hierarchy and under the Third Republic were among the best stepping stones to promotion to the highest posts in the service.

<sup>3</sup> For the work of the *juge d'instruction* in preparing the evidence for the prosecution, see p. 387 n.

Work on the bench has been less likely in the past to lead to promotion. There was danger of being overlooked, particularly if the *magistrat* was in an obscure town. Moreover, because decisions are given by a bench of judges and not by individuals, and because of the clarity of the codes and the uniformity of judicial organization, there is less chance in France than in England for an individual judge to distinguish himself publicly.

### Conditions of Service in the Magistrature

A rather surprising feature of the French administration of justice is the way in which a *magistrat* may shift from one kind of work to another, e.g., from work on the bench to work on the *parquet*, and from there to a position in the ministry, from which he may return to the bench in a very much higher position from that which he originally held. In fact, in the past some of the highest judicial posts in the country have been filled by men with relatively little or, on occasion, no experience in deciding cases. This practice was criticized in the latter years of the Third Republic, as was the preponderant influence of the Minister of Justice over promotions.<sup>4</sup> In consequence, under the Fourth Republic promotions, as well as appointments, have been placed under the control of the Su-

<sup>4</sup> The procedure for promotions under the Third Republic combined certain general rules with an ultimate decision by the Minister. Nearly all the 3,600 positions in the *magistrature* (apart from something over a hundred top offices, which included the heads of the *parquets* at the Courts of Appeal and all the positions in the Court of Cassation) were grouped by law into twelve grades and there were rules governing promotion from one grade to another, e.g., two years had to be served in a grade before promotion could be considered, and in the lower six grades promotion was generally from one grade to the next. Moreover, in the area of each Court of Appeal, a panel was compiled every year with the names of all those eligible for and desiring promotion (so long as the number did not exceed half the members of that particular category) and these panels with their supporting evidence were considered by a central committee of prominent *magistrats* which made recommendations to the Minister. Since there were usually about three times as many *magistrats* recommended for promotion as places available, however, the Minister retained a good deal of discretion in making his choices. Although few people believed that the Minister's power seriously impaired the independence of the judges, there was a persistent rumor that prominent deputies who practiced law before the courts used to use their influence on the Minister of Justice to secure favorable decisions from the judges before whom they were appearing.

perior Council of the *Magistrature*. The hope is that the Superior Council will not only ensure that promotions are the result of merit, not political influence, but that in making promotions it will also give experience on the bench equal weight with service on the *parquet* or in the Ministry itself.

The need to attract attention in order to secure promotion has tended to keep all *magistrats* under a strain, to make them overzealous, particularly in criminal cases, and to place them in a somewhat less independent position than that enjoyed by English judges. The transfer of the final decision on promotions from the Minister of Justice to the Superior Council, however, seems likely to result in more equitable decisions and thus to reduce, if not entirely remove, the strain to secure recognition which has been felt by most members of the *magistrature* in the past.

The French are not unaware of the dangers of the promotion system, but some critics have felt that the most important change to ensure the independence of the judges would be to make a rigid separation between the bench and the *parquet*. They point out that the *parquet* is constantly subject to political influence and believe that the constant interchange between positions on the bench and the *parquet* affects the impartiality of the judges. They recommend, therefore, that all *magistrats* should have to make up their minds after five years' service which branch they will choose. This provision has not yet been adopted, but under the Fourth Republic no transfer can be made from the bench to the staff of the prosecutor except with the consent of the Superior Council.

Another criticism of conditions in the *magistrature* is of the low salary scales. Unless a *magistrat* has inherited or married money he can maintain a standard of living only comparable to that of the lower middle class, though his social prestige is far greater. Low salary scales have meant in the past either that members of the judiciary were mainly people of private means who cared more for the social status of a *magistrat* than for the financial returns or else that there was an insufficient number of candidates: either alternative is unfortunate from the point of view of keeping the

*magistrature* democratic in outlook and high in caliber.

### Conclusion

But though a good deal of emphasis has been laid on the criticism of the *magistrature*, it is generally acknowledged that it has good standards and considerable prestige. Moreover, the establishment of the Superior Council of the *Magistrature* provides a body sufficiently in touch with professional sentiment to be able to keep the needs of the *magistrats* well in the fore. Such issues as the improvement of the material conditions of the *magistrats* and the provision of a broader social basis for selection of members of the *magistrature* have already been referred to the Superior Council for its consideration. Its work, as its supporters hope, may well make both the standards and the prestige of the *magistrature* still higher than they are now.

### III. THE REGULAR COURTS

The French believe that justice is a service which should be provided conveniently and cheaply for everyone, much on the pattern of such services as the postal or the insurance service. Thus French law is administered by a network of centrally organized local courts which bring justice close to every citizen.

Yet, though the French courts are organized under the Ministry of Justice, they are not simply another part of the administration. On the contrary, the most distinctive feature of the French court system is its division into regular and administrative courts; and this distinction arises precisely from the fact that the French distinguish so sharply between the administration and the judiciary.

Because they were fearful that the courts would attempt to interfere with the social and economic changes they were introducing, the National Assemblies of the early revolutionary period specifically forbade the judiciary to limit or encroach upon the sphere of the administration. The constitutions of the Third and Fourth Republics include no similar prohibition, but none the less the courts in France have never

adopted the practice of judicial review which has been so significant in the United States.<sup>5</sup>

Though there has never been pressure in France in favor of judicial review, French leaders recognized, however, soon after the Revolution, that the absence of a judicial check upon the actions of the administration was potentially dangerous. They met this danger not by expanding the powers of the ordinary courts but by developing a separate structure of courts, the administrative courts. In France, therefore, any case which affects an administrative official or in which the state is a party (with the sole exception of criminal cases) comes before an administrative court. By excluding such cases from the regular court system, the French leave the latter free to devote their full attention to disputes between individuals (civil cases) and those in which an individual is accused of a breach of public order (criminal cases).

The French have even a further means of reducing the number of cases coming before the regular courts. On the periphery of the regular court structure are a number of special courts—the *Juges de Paix*, the Industrial Disputes Councils, and the Commercial Tribunals—which are concerned more with conciliation and arbitration than with adjudication and whose personnel are not members of the *magistrature*. These special courts reflect the French belief that official means should be provided to aid the settlement of disputes without recourse to formal judicial processes, and their existence relieves the regular courts of a considerable number of minor cases and of industrial and commercial disputes.

### The Special Courts

The particular function of the courts of the *Juges de Paix*, or Justices of the Peace, is to attempt conciliation before a civil case begins. All persons intending to participate in a civil suit must by law appear before a *Juge de Paix* to be instructed as to their rights, warned about the difficulties and costs, and urged to seek a personal settlement. Such advice seems to have

considerable effect in rural areas, where about 40 per cent of all cases are settled thus without trial. In the cities, however, the procedure has become largely a meaningless formula.

The *Juges de Paix* used to be situated in every canton, and despite attempts at consolidating their courts, there are still over 3,000 of them. In addition to their work of conciliation in civil disputes, they may act as arbitrators in disputes between individual workers and their employers over the meaning of contracts. They also have a very limited jurisdiction in civil actions, and they possess summary jurisdiction in minor violations of police regulations and other small offenses for which they may impose fines and short periods of imprisonment. Otherwise their judgments are subject to appeal to the Courts of First Instance, the lowest rung of the regular court ladder.

The *Juges de Paix* have little except their name in common with English Justices of the Peace. The latter form the two lower levels in the criminal court hierarchy of England; the former are mainly conciliators, with very limited jurisdiction in civil cases and almost none in criminal cases. The English Justices of the Peace are often members of the "gentry"; the *Juges de Paix* are generally rather simple people selected because of local political service. Some slight educational qualification and a period of public service, which may be no more than employment under a local government, are all that are needed to qualify for the office. If the public service has endured for at least ten years, even the need for the diploma disappears.

Yet the justices and their courts do not lack dignity or significance, at least in the country districts for which they are designed. Robed, and with a silver bound hat, the *Juge de Paix* in his small, orderly court, with its simple and cheap procedures, is a distinctive and useful figure among France's peasant proprietors.

On the same plane as the *Juges de Paix* are the *Conseils de Prud'hommes*, or Industrial Disputes Councils, which may be established in industrial cities by executive decree to arbitrate disputes arising out of contracts between workers and their employers. A *Conseil de Prud'hommes* is composed of equal numbers of representatives of workers and employers elected for six-year periods (half retiring every three

<sup>5</sup> The French themselves believe that the fact that the courts do not interfere in the relations of the executive and legislature means that France has a truer separation of powers than has the United States.

years) by the members of their own group in the particular area and carries on its work through a number of divisions. Disputes are heard by a *Conciliation Bureau* made up of one worker and one employer; if it is unsuccessful, the case is referred to a *General or Trial Bureau*, made up of a larger number of representatives; and if they cannot settle it by majority vote, the *Juge de Paix* is brought in to give the deciding vote. In disputes involving minor amounts, the jurisdiction of the *Conseils de Prud'hommes* is absolute, but in more serious cases there is an appeal to the Courts of First Instance.

The third series of special courts are the *Commercial Tribunals* established by executive decree in about three hundred commercial centers and composed of unpaid "judges" elected for two-year periods by the businessmen of the local community. They are empowered to act in certain commercial cases defined by law; there is no appeal unless there is a considerable sum involved, and the appeal then goes to the Appeal Court.

Though the cases over which they have jurisdiction are small, all these courts bear a relation to the regular system of courts to which their more serious cases can be appealed. Moreover, if there is no Commercial Tribunal in a particular place, a Court of First Instance undertakes its function. The particular value of the special courts, however, is that they provide cheap and convenient justice, that they draw a good many people into the judicial work of the community, and that they relieve the regular courts of the burden of minor cases which can be settled as well or better without recourse to complicated judicial procedures.

### **The Hierarchy of the Regular Courts**

The regular courts in France have a unified structure. They are not divided on a federal-state basis like the American courts nor, except at the appeal level, separated into civil and criminal courts on the English pattern. The difference from the English court system, however, is more apparent than real for both the lower courts, the Courts of First Instance, and the highest court in France, the Court of Cassation, are divided into separate chambers for

handling civil and criminal cases. Moreover, for French judges, as for English judges of the High Court, civil cases are of chief importance, with criminal cases a secondary responsibility, undertaken only when necessary. Another similarity to English practices is that judges of courts with original jurisdiction are used also in appeal courts.

One major difference from the English court structure, however, is that there is no separation between local and central courts in France. On the contrary, all of the French regular courts are unified under the tight central control of the Ministry of Justice and there is no overlapping of jurisdictions. But this fact is coupled with another which gives the French court system its most distinctive characteristic: the wide geographical distribution of both the courts of original jurisdiction and the appeal courts. The characteristic feature of the organization of the English courts, as we have seen, is the degree to which they are centralized in London. The civil hierarchy of the court system in England has a moderately broad base in the County Courts, but then rises vertically through the centralized High Court of Justice and the appeal courts. The English criminal hierarchy has a still broader base in the Justices of the Peace, which slopes less abruptly through Petty and Quarter Sessions and the Assize Courts until it reaches its peak in the centralized appeal courts. But the French court system is nearly all base. With the exception of the highest court, the Court of Cassation, all French courts are local or regional.

### **THE COURTS OF FIRST INSTANCE**

At the base of the regular court structure in France are the 360 trial Courts of First Instance. They are composed of civil sections, known as *Tribunals of First Instance*, and criminal sections, known as *Correctional Tribunals*. In an effort at economy in 1926, Poincaré reduced the number of Tribunals of First Instance to one for each of the ninety departments of continental France while retaining criminal "sections," which were almost separate courts, in each of the major towns. Local political pressure, however, motivated by desire for prestige and convenience, resulted in re-establishing all the Tribunals of First Instance within four



tertained from the decisions of the *Juge de Paix* on breaches of police regulations, and decisions in these cases are final. Unlike the practice in civil cases, however, all judgments of the Correctional Tribunals in cases referred directly to them are subject to appeal to the Court of Assizes.

#### THE APPEAL COURTS

While the Appeal Courts are not quite as decentralized as the Courts of First Instance, there are twenty-seven of them, of which twenty-four are in the larger provincial cities, one in Paris, and one each in Algeria and Corsica. This means that no one has to travel very far if he wants to appeal his case, a sharp contrast to the English practice of having all the appeal courts in London.

As far as judging cases is concerned, the Appeal Courts are limited to civil jurisdiction. They receive cases appealed from either the Tribunals of First Instance or the Commercial Tribunals, hear them *de novo* (as a new case), and render verdicts which are final as far as facts are concerned. The bench is usually composed of five judges, though the Paris court uses seven in each of its twelve civil sections. The only possibility of a further appeal is to the Court of Cassation on a point of law.

Though the Courts of Appeal do not try criminal cases, they prepare indictments for the Assize Courts whenever the criminal investigation officer, the *juge d'instruction*<sup>6</sup> decides that a case should be referred directly to the Assize Courts instead of to the Correctional Tribunal. The indictment section of the Court of Appeal, which is composed of at least five judges, thus performs the functions of a grand jury (a function undertaken in England by the Court of Petty Sessions), that is, of reviewing the evi-

dence and determining whether the case should be dismissed or sent to the Assize Courts.

#### THE ASSIZE COURTS

In every department there is an Assize Court which normally sits once in three months in each major center of that area. In Paris, however, as in the Central Criminal Court in London, the sessions are almost continuous.

The distinction between the Assize Courts and the Appeal Courts is one of function rather than of personnel. The Appeal Courts always provide the president of the Assize Court, and when the Assize Court is meeting in a town which is the seat of an Appeal Court, the latter provides all the judges for the Assize Court. Otherwise, the three members of the Assize Court (apart from the president) are selected from the judges of the Court of First Instance in the particular city where the court is held. Thus Assizes in France are not like those in England, in which a judge from the central courts in London goes on tour through local areas, but are courts composed of locally situated judges. The similarity between Assizes in France and England is that in both countries they are courts which are held periodically in different places for the purpose of trying serious criminal offenses.

When the Assize Court is acting as a court of appeal in cases referred from the Correctional Tribunal, it sits without a jury. But when cases come to it as a court of original jurisdiction—i.e., when crimes, felonies, or misdemeanors in connection with the press are under consideration—there is a jury trial.

This is the one place in the French judicial system where a jury is used, a fact which contrasts sharply with the fairly extensive use of a jury in both civil and criminal cases in the United States and their invariable use in English Assize Courts (p. 188). Another contrast lies in the fact that juries give their decision by majority vote. On the whole, the French consider juries to be very unsatisfactory, as they are said to be swayed by emotion rather than by evidence. No question arises about their predisposition in favor of property, as was sometimes charged in England, partly because juries are not used in that type of case and partly because they are chosen by lot from a *sessional*

<sup>6</sup> When a penal action is reported by the police, it is referred to a *juge d'instruction* who is specially trained for the work of investigation. In smaller communities the work of judge in the local court of original jurisdiction is often combined with that of *juge d'instruction*, but in larger places the latter concentrates on his special work. Once a member of the *parquet* has given authorization, the *juge d'instruction* can issue warrants for arrest, authorize searches, question witnesses, and make use of experts. He has power to dismiss a case referred to him by the police if he believes there is insufficient evidence. If he decides it should be prosecuted, he has the right to determine whether it should be referred to the Correctional Tribunal or to the Court of Assizes.



list which is prepared from departmental lists, also drawn up by lot. The major criticism is that they are too sympathetic toward beautiful women who commit *crimes de passion*.

Because of the general disapproval of the way in which juries act, there is a strong tendency to send as many cases as possible to the Correctional Tribunals, so that if they are considered in the Assize Courts it is on appeal and a jury is not necessary.

#### THE COURT OF CASSATION

The highest court in France is not strictly an appeal court but a court of revision. The word *casser* means "to break," and the function of the Court of Cassation is to approve or to quash the decision of an Appeal or Assize Court on a point of law. Since requests for interpretations come to it from the whole court structure (it is the only nation-wide court in France, apart from the Council of State), the Court of Cassation is kept very busy; its decisions are often delayed over a year. Except in capital offenses, this does not cause a delay in the execution of the sentence given by the lower court, however, as would be the case with an ordinary appeal. Should a change in the verdict ultimately occur because of a decision by the Court of Cassation, proceedings for restitution have to be instituted.

Points of law are referred to the Court of Cassation either by one of the parties to a case or by its own *Procureur-Général*, the head of the prosecution branch, or *parquet*. The Court considers only such points of law; it does not try the case. If it believes a wrong interpretation of law has been given by the court whose opinion was challenged, it gives its decision only on the point of law and sends the case back to be tried by another court on the same level.

The Court of Cassation is divided into three sections: the *Chambre des Requêtes* or Petitions Section, the Civil Section, and the Criminal Section. Each of these sections has sixteen members who deliberate together on the questions referred to them. The First President, who is the head of the whole French judiciary, may sit in any one of the sections. Moreover, not only the *Procureur-Général* of the Court of Cassation but also six *Avocats-Généraux* from the chief Appeal Courts are attached to the Court of Cassation, since they, as the heads of the *par-*

*quets* of the French courts, keep a vigilant eye on anything affecting the interests of the state.

When the decision of an Assize Court is quashed on legal grounds by the Criminal Section of the Court of Cassation, the case is sent back for a fresh trial by another court on the same level as the trial court from which the case was referred.

Points of law in civil cases referred to the Court of Cassation may require a longer procedure. They are sent first to the Petitions Section which considers them carefully in order to determine whether they are sufficiently important to refer to the Civil Section. If it decides to refer the matter to the Civil Section, the latter considers it only on the basis of the arguments brought forward in the lower court, unless the *parquet* considers it to be of public interest to open up some further points. If the decision confirms the judgment of the Appeal Court, the matter is closed. If, however, the Civil Section "breaks" the judgment of the Appeal Court, this only means that the case is reopened. The case is referred to another Appeal Court which may accept the interpretation of law given by the Civil Section and adjust the judgment accordingly. It is also possible for the new Appeal Court to object to the decision of the Civil Section either because it believes there are new arguments which should be taken into account or because it disagrees with the logic used by the Civil Section. If new arguments are introduced, the point is referred back to the Civil Section. But if the Appeal Court challenges the interpretation of the Civil Section on the old ground, the point is referred to the whole Court of Cassation meeting in plenary session. Its view is final, and, although technically binding only in that case, is always adopted by the whole judicial hierarchy.

The advantage of this procedure is that doubtful points of law can be cleared up cheaply. In England and the United States the cost of appeals is so great that many matters are never pushed through to the highest court and, in consequence, the fine points of law involved are left undecided. In France no such uncertainties are allowed to exist. If the parties to the case are not prepared to press the matter themselves, the *Procureur-Général* undertakes it because it is considered to be to the interest

of the state to have the law clear and known.

The chief criticism levied at the Court of Cassation is the delay which often occurs before judgment is given (in one case the delay was for eight years). Under the Fourth Republic proposals have been made to speed proceedings by abolishing the Petitions Section, by providing for general assemblies of all sections of the Court of Cassation to unify their procedure, and by insisting that an annual report on the progress of its work be submitted to the Superior Council of the *Magistrature* (p. 380). Some such measures would make the Court of Cassation even more valuable than it is now.

### ***How Satisfactory Is the French Court System?***

The structure of the French court system provides many advantages which are lacking in England. The fact that not only the Courts of First Instance but also the Appeal Courts are decentralized brings justice within the reach of everyone. Further, convenience, speed, and cheapness are enhanced by permitting only one appeal, instead of two or even three as is possible in England. Finally, the uniformity of the system means that the inhabitants of a southwestern city have exactly the same kind of courts of original jurisdiction and appeal as the inhabitants of Paris. In England, in contrast, not only are the Appeal Courts centralized in London, but the County Courts, despite their concurrent jurisdiction in lesser cases with the divisions of the High Court of Justice, hardly rank on a place of equality with the High Court in personnel.

A general evaluation of the French court system, however, requires consideration of the same questions which were raised in regard to the court system in England. What is the atmosphere of the courts? Do they provide an opportunity for all aspects of a situation to be explored? Do the courts give private persons adequate protection in criminal cases in which the resources of the government are behind the prosecution? Do they provide speedy, effective means of settling disputes? And is justice, in practice, open to all on equal terms?

### **THE ATMOSPHERE OF THE COURTS**

The sessions of a French court are likely to seem sober and even dull to an American, for there is much less use of oral evidence in a French court than in an English or American court. Witnesses are often questioned prior to court sessions and their information presented in writing, thus providing the same amount of information as in the Anglo-Saxon court system but in a less dramatic way. Moreover, while eloquence in an American or English court is often for the benefit of the jury rather than the judge, there is little chance for the French *avocat* to practice this kind of persuasion since juries are used in only one court in France, the Court of Assize, and then only when it is providing original jurisdiction.

### **IS ALL THE EVIDENCE BROUGHT OUT?**

But at the same time, to a much greater degree than English judges French judges take upon themselves the responsibility for seeing that all the evidence is brought out in a case. The judge in an English court looks on himself as an umpire before whom two parties argue out their case. French judges, even in civil cases, examine witnesses (often outside of court), question lawyers, and press proceedings in whatever direction they feel necessary to elucidate the facts.

### **IS ADEQUATE PROTECTION AFFORDED THE DEFENDANT?**

It is largely this active role of the judges in a French court which makes Anglo-Saxon observers feel that defendants in a criminal case do not always have an adequate opportunity to defend themselves. Procedure in English criminal law emphasizes every possible safeguard for the accused, and judges are sometimes placed under considerable strain by their desire to provide fair play and at the same time prevent an obvious criminal from escaping the verdict he deserves. French judges labor under no such inhibitions. They are openly set upon bringing out all the facts in the case and take an active part in the cross-examination. A famous French play, *La Robe Rouge* by Brieux, pictures French judges as forcing convictions at any price in order to secure prominence and

promotion. While this picture seems much exaggerated, judges do pursue a role which Anglo-Saxons feel is more fitting for a public prosecutor. Paradoxically, while the judge is expected to elicit the truth from a prisoner by an inquisitorial technique, the *parquet*, as the representative of the interests of the state, is supposed to see that fair play is maintained. Since, however, the *parquet* officer is also responsible (like a district attorney) for securing prosecutions, he finds himself, one would assume, under even greater strain than an English judge.

It must be remembered, however, that the defendant in a French criminal case does not appear in court until after he has been through a long preliminary examination which has convinced the *juge d'instruction* that he is guilty. If he appears initially before the Court of Assize, not only the *juge d'instruction* but the Indictment Section of the Court of Appeals as well are convinced of his guilt. Nevertheless, this does not provide much comfort to an Anglo-Saxon observer who does not approve of private inquisitorial sessions, at least as an official part of criminal procedure. Since France has no Habeas Corpus Act, an accused person could be in jail for a long time (in extreme cases, more than a year) before coming to trial. During this time the *juge d'instruction* functions practically without limitation, except in regard to use of physical force, in his efforts to find evidence to support the suspicions of the police.

It is not true, as is so often said, that in France a person accused of a crime is considered guilty unless he can prove himself innocent. But because of the long preliminary interrogations, there is a presumption of his guilt which is evident in the attitude of the presiding judges. English and American criminal procedures are mainly motivated by fear lest an innocent person be convicted; French criminal procedures by fear lest a guilty person escape.

#### DO THE COURTS PROVIDE PROMPT AND INEXPENSIVE REMEDIES?

As we have observed, the French court system, with its decentralization and its limitation to one appeal, provides justice noted for cheapness and speediness—except for occasional

long delays in the Court of Cassation. The costs of a review by the Court of Cassation are borne by the state. Local lawyers are used more often than in England, partly because the uniformity of the courts and the relative simplicity of the codes mean that the skill and training of the lawyers are not quite so important as in that country, and partly because no single place in France is such a center for the legal profession as London is for England. Moreover, though there is no statutory limit on the costs of legal aid, agreement on this subject is generally reached between lawyer and client before the case begins. On the other hand, this system is far from being so helpful to those in need as the legal aid now provided in Great Britain (see p. 191).

#### To Sum Up

The French court system provides justice in a convenient, inexpensive, and equalitarian way which cannot be rivaled by the English or American court systems.

Nevertheless, the independence of judges is not safeguarded quite so completely in France as in England, though the Fourth Republic has gone a very long way towards protecting both appointments and promotions of judges from political influence by giving most of the power formerly vested in the Minister of Justice to the Superior Council of the *Magistrature*. As long as the latter body remains impartial and above partisan political influence, the French judiciary should enjoy a high degree of independence.

The second possible criticism, that the French *magistrats* are not so learned as English judges, is not a serious one, since their task of basing decisions on the codes is less difficult than the work of English judges in interpreting case law.

As far as popularity is concerned, each country prefers its own system. It is noticeable, however, that the English system is gradually becoming more equalitarian, both in the sense of drawing the judges from a wider social group, and in the sense of bringing justice within the financial reach of persons of moderate means. In both respects, this means that the English system is moving closer to the

French, while there is little indication that the French feel the need to adopt any English practices in the administration of justice.

#### IV. THE ADMINISTRATIVE COURTS

Side by side with the hierarchy of regular courts in France exists a second hierarchy, the administrative courts, which are "parallel and often rival," as a French expert has said. Administrative courts are provided by the French to keep the agents of the state within their grants of power and to give the individual a remedy against arbitrary administrative decisions. In England and the United States the regular courts perform these functions.

Nothing exactly like the French administrative court system exists in England or the United States, though in both countries there is an increasing amount of administrative adjudication (p. 193). Most Englishmen still feel that the best safeguard of justice is to have one law for everyone and are disturbed at the thought of separate courts for officials. But the French are well pleased with their administrative courts and believe they ensure surer justice than the somewhat cumbersome practice in England or the United States of bringing suits against officials through the regular courts.

Administrative courts, which are concerned only with civil cases, exist on both the local and the national level. On the local level they used to be known as Prefectural Councils, since there was one for each department. Since 1926, however, all except the Council for the Department of the Seine have been grouped into twenty-three regional bodies and are known as *Interdepartmental Prefectural Councils*. On the national level the system is headed by the Council of State (*Conseil d'Etat*), one of France's most remarkable institutions.

To check administrative officials by administrative officials might seem to make administrators judges in their own cases and to destroy the safeguard which the system is intended to provide. Initially this proved to be the case, but gradually a distinction was made between *active* and *consultative* administration, that is, between those performing administrative services and those who were specialists in the law

governing the consequences of administrative actions. In 1872 the Council of State was given full power of jurisdiction in administrative cases and since that time it has specialized increasingly in this work. Since there is no code law in this field, case law has grown up, providing for both stability and flexibility in the handling of cases.

As it is not always clear whether a case belongs in the ordinary courts or in the administrative courts, a special body called the *Tribunal des Conflits*, or Tribunal of Conflicts has been established to decide all conflicts in jurisdiction. This court is composed of an equal number of members of the Council of State and the Court of Cassation and sits under the presidency of the Minister of Justice. Through its work, a line of demarcation is kept between the ordinary and the administrative courts. In the rare cases in which overlapping is unavoidable, the Tribunal of Conflicts gives the decisive judgment.

#### *The Interdepartmental Prefectural Councils*

The Interdepartmental Prefectural Councils correspond in the administrative court hierarchy to the Courts of First Instance in the ordinary judicial hierarchy. They consist of a president and four councillors, all recruited either by competitive examinations or from among career members of administrative bureaus who possess law degrees and have served for a number of years.

The Interdepartmental Prefectural Councils are limited in jurisdiction to matters specifically referred to them by national law. They are concerned only with the actions or orders of local officials, usually in respect to local administration, though possibly to local administration of national affairs. About 90 per cent of their work has to do with local tax assessments, though minor offenses committed on public highways or streams, claims against local public bodies for breach of contract, and cases involving public works, sale of government property, and local elections may also be considered.

The procedure is simple and inexpensive, a fact which accounts for the heavy use made of the courts (usually about 30,000 cases a year).

To file a complaint the plaintiff need only fill out and sign an official form costing a few francs. The court may ask for documents and written observations, and in special circumstances it may secure the opinion of experts on technical points. After the written evidence has been considered, an oral hearing is held at which the parties, or their representatives (who do not need to be lawyers), may present arguments in person. Following this, the *rapporteur*, who is one of the councillors, reads his report on the case, and the "commissioner," who is another councillor acting as the representative of the government agency involved in the case, presents the government's point of view. The court gives its verdict immediately by majority vote. There is a possibility of making an appeal from the judgment of an Interdepartmental Council to the Council of State, but use of this provision is rare.

### The Council of State

The Council of State is by far the most important organ in the administrative court structure. The administrative work of the Council of State as technical adviser to the government in the drafting of bills and ordinances has already been described (p. 350). The Council of State is equally if not more important as a judicial agency. The two types of work are done by entirely different sections and those who advise the government on legislation and decrees have no part in the judicial work of the Council.

That part of the Council of State which deals with administrative cases is the Litigation Section, and the actual judging is done by its thirty councillors, who are its top officials. One-quarter of the councillors may be appointed from among prefects or division heads of the active administration. Two-thirds of them must be drawn by promotion from the Council's own junior members, who are recruited initially by the stiffest examinations existing within the French public service; they serve in three grades—second-class *auditeurs*, first-class *auditeurs*, and *maîtres des requêtes*—before being eligible to be considered for councillors. The judges in the Council of State are drawn, therefore, both from active administrators who have

demonstrated their capacity in the service and from men who have undergone a rigorous intellectual training and proved themselves in administrative work. For this reason, the Council of State has a happy blend of theoretical and practical experience to draw upon.

The Litigation Section used to act as a unit, but under the pressure of work, which amounted after World War I to about 4,000 cases a year, was divided into subsections. The subsections, consisting of at least three members each, were given powers of decision in minor cases appealed from the Interdepartmental Councils and also made responsible for preliminary examinations and consideration of more important cases. The latter are then referred to the Litigation Section as a whole for its verdict or, on request, to a "plenary assembly" of the whole Council.

### PROCEDURE IN THE COUNCIL OF STATE

The procedure in the Council of State is only slightly more complicated than in the Interdepartmental Prefectural Councils.<sup>7</sup> Appeals may be mailed and need include only an official form, on which the complaint is described, and the necessary supporting documents. Within two months of their receipt by the relevant division of the Litigation Section, the plaintiff must notify the official defendant of the complaint. The latter has two weeks in which to make a written reply and a *maître des requêtes* is designated to act as "commissioner" for the defendant's department. The Section then undertakes an investigation of its own, usually at the spot where the action under consideration has been committed. The report of this investigation goes to the "commissioner" so that he can formulate his reply.

The actual trial consists of a reading of the documents and of such oral arguments as the plaintiff may wish to present. No witnesses are heard and no new evidence may be presented

<sup>7</sup> There is a special body of lawyers, known as the *Avocats à la Cour de Cassation et au Conseil d'Etat*, who have a monopoly of pleadings both before the Court of Cassation and the Council of State. There are about sixty lawyers in this group and the fact that they appear before both courts helps to unify civil and administrative practices. The fees of these lawyers, however, add a good deal to the cost of proceedings before the Council of State which otherwise are small.

at this stage, but the judge may ask questions regarding facts cited in the documents. The final decision is reached in private session. The only problem: the excessive load of cases carried by the Council of State tends to slow down justice.

#### THE JUSTIFICATION FOR A COMPLAINT

Almost anyone can bring a complaint directly to the Council of State, though the requirements vary according to the nature of the case. In some instances, it is necessary to prove that a legal right has been violated. In others, any direct interest, personal or monetary, is sufficient. In still others, any individual, group, or organization may file a petition merely because of its moral or public interest in the matter.

There are two major justifications for a complaint: an action in "excess of power" or an action involving "abuse of power." In "excess of power" means that one of the following breaches of legality has occurred: (1) the administrative order under which the action was undertaken conflicts with existing law or the Constitution; (2) the official was not legally competent to issue the order or perform the act; (3) the procedure used in carrying out the act was not authorized by law or by ordinance. An "abuse of power" means that an act, though legal in form, was not undertaken for the purpose for which it was designed, i.e., not in "good faith," but for personal advantage or spite. Such an "abuse of power" occurred in a small French town when the mayor, who owned one of the two local hotels, had drains laid so that they emptied near the hotel of his rival.

#### *The Character of State Liability for Its Agents' Acts*

In determining the state's liability for official acts, the French make a very careful distinction between three kinds of acts by public officers: personal acts, acts of administration, and acts of government. *Personal acts*, for which the individual official is personally liable before the regular civil or criminal courts, as in England or in the United States, involve serious misconduct for which there is no justification. These may include harmful acts committed without

authority, abuse of power as indicated above, and gross negligence in the exercise of legally vested powers. If acts in excess of authority are committed in good faith, however, as, for example, under the orders of a superior (which are no excuse for an illegal action according to Anglo-Saxon conceptions) there is no personal liability in France and the action comes under the category of an act of administration. In case of doubt, the Tribunal of Conflicts is the final authority.

*Acts of administration* are divided into two categories: *actes de gestion* and *actes d'autorité*. *Actes de gestion* are those performed in the course of administering public services, like railroads, industrial monopolies, or the ownership of land, in relation to which activities the state is considered a private person, subject to the same pecuniary responsibilities as private citizens. These responsibilities include liability not only under contracts (as has long been customary in Anglo-Saxon countries), but also for torts (a more recent innovation especially in England—p. 193), and even for bad service. Generally, in France the government is also more generous than in England or the United States in assuming responsibility for the faults of its agents in acting without legal authority, in abuse of authority, or with negligence.

Many of the complaints regarding *actes de gestion* come from inside the service itself. Almost half the petitions received by the Council of State under the Third Republic were filed by subordinate government employees appealing decisions on transfer, dismissal, or retirement. Thus the Council of State has acted as the particular guardian for the local civil service for which it has drawn up a model personnel code (p. 375). Most of the other cases involve private claims because of actions undertaken by mayors or municipalities or, in relatively few cases, the central civil service.

But when acts of administration are related to the exercise by the state of political authority over its citizens, they are known as *actes d'autorité*, for which the state will not customarily accept liability for damage. The only recourse in regard to such acts is to have them annulled by the Council of State, which can be done if the order was outside the grant of legal power

to the officials, or if the power was used for a purpose which was not intended.<sup>8</sup>

Cases involving annulment of decrees are the most significant which the Council of State undertakes. In a sense, this power of annulment bears similarities to the power of judicial review. The review is only concerned with the question of whether decrees are in conformity with the content of legislation, however, not as in the United States, with whether legislation itself is in conformity with some higher law embodied in the Constitution.

It is at this point that the work of the two different branches of the Council of State show their interrelation, because it is not likely that the judicial section of the Council of State would have to declare a decree *ultra vires* (outside the grant of powers) if the Council of Ministers had made more use of the advice of the legislative section of the Council of State in drawing it up.

There is still a third category of official acts in France which is known as *actes de gouvernement*, acts taken with a view to public safety, e.g., for defense, public health, and so forth. These acts can neither be annulled by the Council of State, nor can litigation be based on them.

Acts undertaken in the sovereign capacity of the state form the parallel in Anglo-Saxon countries to *actes de gouvernement* in France. There are some differences, however, which most observers feel are very significant. Thus English and American judges have always maintained that this justification for official acts has validity only in cases where there is "clear and present danger" to the community, e.g., invasion, fighting in near-by areas, or a serious epidemic. The French, in contrast, place a more flexible interpretation on *actes de gouvernement*, maintaining that "high state policy" can justify them as well as an emergency. Moreover, in Anglo-Saxon countries, the officials of

the government may still be liable as private individuals for abuses or excesses of power in carrying out a program which the state undertakes in its sovereign capacity, whereas this is much less likely in France.

One of the major differences between the two systems, therefore, is that in Great Britain and the United States the government is much more restricted than in France in the kind of acts which fall outside the consideration of the courts. On the other hand, the French government assumes more financial liability for the acts of its agents than do the governments in Anglo-Saxon countries. The great popularity of the administrative courts in France, and, in particular, the Council of State, arises from the fact that private individuals secure such cheap, speedy, and sure redress in cases where government officials have overstepped the bounds of their power.

### Conclusion

Though the Interdepartmental Prefectural Councils handle many more cases than does the Council of State, nearly all of them are of minor importance. Almost all significant cases are referred directly to the Council of State. This contrasts with the practice in the regular court system, for no other central judicial body in France acts as a court of original jurisdiction. Thus not only is the Council of State the apex of the administrative court system but its work also affects directly the activities of the administration in every section of France.

Two questions should be considered, however, in connection with the administrative courts in France. How effective are they in protecting the interests of the ordinary citizen? And are they a more satisfactory safeguard of individual liberty in a time of immense expansion of state functions and powers than the methods which are common in Anglo-Saxon countries?

### HOW EFFECTIVE ARE THE ADMINISTRATIVE COURTS?

There are many reasons for considering the Council of State in France to be an efficient guardian of public interests. It can be appealed to by almost anyone through a simple and inexpensive procedure. If a plaintiff's claim is up-

<sup>8</sup> At the time when the French government was about to establish its match monopoly (p. 341), it directed the prefects, under their power to prevent unhealthy industries, to close all match factories operating without a license. The Council of State immediately annulled the order on the ground that power was being used for a purpose not intended and subsequently also decided that the state was liable for the loss of revenue caused by closing a factory. Thus the government had to pay damages and subsequently to buy out all the match factories in order to establish its monopoly.



held, he pays no costs; if it is denied, he pays only a nominal sum. If money damages are claimed, necessitating special court and registration fees, the total cost of proceedings is too small to deter anyone who has a reasonable claim.

In the second place, the Council of State has not hesitated to be strict in keeping high administrative officials to the letter of the law. If, for example, it finds that a civil service employee has been wrongly dismissed, it orders his reinstatement and insists that he be paid in full for the time he has been out of the service.

In the third place, the Council has been extremely generous in awarding damages to individuals. In one instance, a man was awarded damages for injuries caused by a shot fired by a policeman at a mad bull. In another, a municipality paid damages to a man injured in a duck-shooting competition organized by the mayor, despite the fact that the mayor had been held personally liable by an ordinary court. In a third case, the Air Ministry was held liable for damages caused by the crash of a military plane.

It might be thought that administrative courts would be sympathetic to administrators and therefore would tend to excuse their actions. It is true that since onetime active administrators form a proportion of the councillors of the Council of State, there is an understanding of the problems of administrators which a purely judicial body would probably lack, an understanding which facilitates investigations of particular complaints by administrative court officers. But as far as verdicts are concerned, the Council of State has consistently upheld precise standards of legality, has condemned every deviation from them by the agents of the state, and has insisted on full responsibility by the government for the faults of its agents in so far as these are *actes de gestion* and not personal acts.

The procedures of the administrative courts are for these reasons extremely popular in France. They provide easy, and sure, though in the case of the Council of State not always swift, remedies, and they prove an effective check on administrative excesses. The French consider, with justification, that their administrative court system has been in practice a safe-

guard of the interests of individuals and a watchdog of official morality.

#### COMPARISON WITH ENGLISH AND AMERICAN PRACTICES

Are the French administrative courts, therefore, more satisfactory checks upon the arbitrary action of officials and better safeguards of the interests of private individuals than the English and American practice of depending largely upon the ordinary courts for redress?

It is still true, as Continental critics point out, that a Frenchman can more easily secure redress for the unintended consequences of an official act than can an Englishman or an American. But it is also true that neither the English nor the Americans face such a serious problem in connection with official liability as do the French, because in both England and the United States administration is far more decentralized than in France, and in both countries local units of government have long been liable for damages in many instances where the central government was not. Moreover, both the American federal government and the British government now permit suit against the state in torts so that in most cases the Anglo-Saxon can now secure relatively the same pecuniary redress for the results of official mistakes as can the Frenchman. Under present conditions, the main difference between the Anglo-Saxon and Continental systems as far as financial redress is concerned is that in Great Britain and the United States the unexpected consequences to someone else of an act in line of duty are not usually indemnified by the government as they are in France (e.g., bystanders injured by bullets fired by a policeman pursuing a murderer are not recompensed by the state in the United States or Great Britain but they are in France).

Yet, advocates of the Anglo-Saxon system maintain that while the French system provides the greater protection against pecuniary loss by individuals, the Anglo-Saxon system provides a stricter adherence to law. They believe that the very fact that the ordinary courts deal with cases affecting the administration side by side with other cases means that government officials are kept aware of the necessity of adhering to the regular laws of the land. They point out too that the Anglo-Saxon notion of personal liabil-

ity for abuse of power, regardless of whether the act is committed under orders or not, places the weight of personal responsibility directly on every official and prevents him from "passing the buck" to his superior.

In the end, there is much to be said in behalf of both systems. There is little question that the Council of State operates so efficiently and fearlessly in France that it has kept public officials responsive to law and has scrupulously protected the interests of the people. In comparison with the Anglo-Saxon system, administrative courts have the advantage of cheapness of procedure, and lack of technicalities—no mean

qualities in dealing with the all-pervasive, swiftly-moving modern administrative structure of government. On the other hand, the Anglo-Saxon system embodies the conception of one law for everyone and therefore rejects the argument that high state policy gives the government the right to act freely apart from the control of the regular courts. And as between efficient pecuniary protection of individuals and the maintenance of a nation-wide tradition that every person, whether government official or not, is subject to the common rules of the law of the land, those people who feel that liberty must be dependent on law may well prefer the latter.

## CHAPTER 9

# French Society in Change

One of the anomalies of French life has been the degree to which social institutions have been inconsistent with the equalitarian ideals of the Revolution. The French people became habituated to such anomalies, however, and accepted them so long as the normal patterns of life persisted. Thus prior to the depression which led to the Popular Front, there was relatively little concern over the perpetuation of class divisions within the educational structure and the absence of adequate labor and social security legislation. It was the serious reconsideration of fundamental ideals during the Nazi occupation that gave the great impetus to social and political reform in contemporary France. Only through social institutions more nearly reflecting equalitarian ideals, it was believed, could the "indestructible men" of the Resistance poets emerge.

### I. EDUCATION

The French educational system presented the most serious contradiction between theoretical equality and actual inequality. In theory, there was a unified and democratic school program through which any qualified student could move from the lowest to the highest levels. But in practice there were rigid divisions between primary and secondary education so that those who had completed their elementary training often found it difficult to secure more advanced instruction which would open the way to the universities. Moreover the distinction between those who could continue on to higher training and those who could not was often based on wealth and social class rather than on ability. "We are in a hurry to pen our children amongst the children of their own class, bourgeois or

laborer, at school or college," wrote Michelet in words which remained true almost as long as the Third Republic lasted; "avoiding all mixing, we very quickly separate the rich from the poor."<sup>1</sup>

### *Lower Education*

Even at the very lowest educational level the bourgeoisie and the working class customarily sent their children to different schools. The latter attended the free municipal nurseries and then the primary schools (similar to American grade schools) until compulsory education ended at fourteen. The bourgeoisie, on the other hand, nearly always sent their children to the kindergarten and junior departments of the secondary schools which were more like American private day-schools.<sup>2</sup> The junior departments of the secondary schools concentrated upon preparing their students for the competitive examinations (taken at eleven) which all candidates for the secondary schools had to take, while primary education was primarily "practical" in character. Thus though it was always possible for an unusually able student of working-class parents to make the transition to the secondary schools, it was far more difficult than for those who prepared in the junior departments of the secondary schools.

This early educational segregation, and the consequent difficulty which the children of the poorer classes had in passing the competitive examinations for the secondary schools, was re-

<sup>1</sup> In some respects, French education has been more democratic than English education, particularly because France has nothing equivalent to the English "public schools."

<sup>2</sup> The difference between the two systems was also reflected in their administration: the primary schools being under the prefect while the secondary schools, like the universities, were administered by the rectors of the universities.

flected in the relatively small number of students who continued with education at that level. Though France abolished fees for secondary education after World War I (more than 20 years before Great Britain), only 250,000 children (6 per 1,000 of the population) were enrolled in French secondary schools in 1935, in comparison with 11 per 1,000 in Great Britain and 36 per 1,000 in the United States.

Another reason for the relatively small proportion of students in secondary schools was that their curricula placed almost exclusive emphasis on literary studies and the classics, and almost totally ignored current problems. Practical questions, such as are dealt with in subjects like political science, economics, or engineering, were not touched until a relatively late stage. Thus the chief value of secondary education, apart from its literary training, was as a route to higher education.

### Higher Education

Before entering the university, however, the French student had, and still has, to pass stiff and highly specialized examinations. Moreover, higher education in France is professional in character (as is the practice in Continental countries in contrast to the more general education in English and American colleges) and is rarely completed before twenty-three. Therefore, even when the children of poor families had finished secondary school, they still had to be supported during a long period of professional training, unless they could gain a scholarship. Such restrictions helped to keep the number of students in higher educational institutions relatively small by American standards.

Not only was there criticism in France of the difficulties which the children of the poor classes had in securing higher education, but also of the organization and character of the institutions of higher education. At the apex of the French educational structure were the seventeen universities of France and the "*Grandes Ecoles*," the special training schools for professions and public service (e.g., the Polytechnic for engineering, the *Ecole libre des sciences politiques* for the foreign and fiscal services, and the higher normal schools for teachers). The universities, ac-

cording to their critics, had become mere aggregations of faculties of law, medicine, science, letters, and pharmacy, each with such specialized examinations that "cramming" (a profession in itself) too often replaced ability as the key to entrance. More serious were the charges that the "*Grandes Ecoles*" were a threat to the Republic because they had become the preserve of a particular group in society which added professional exclusiveness to strong "upper-class" feeling. It was commonly said that the graduates of the "*Grandes Ecoles*" constituted a "state within a state," a matter of great seriousness because of their virtual monopoly of influential positions in education, diplomacy, the Council of State, and other government agencies.

In addition to these defects, critics of the French educational system in the pre-war period argued that too much emphasis was placed upon intellectual accomplishment and too little upon physical and character development. Moreover, they declared that the training did not supply enough technicians or research workers for France's needs. Those who opposed the selectiveness and class character of secondary and higher education pointed out also that such characteristics not only violated the concept of equality but robbed France of the services of many potentially skilled and able people.

All these criticism were voiced with particular intensity during the Nazi occupation, when Frenchmen were pondering the reasons for their defeat. The regression under Vichy through re-introduction of fees in secondary schools, compulsory religious instruction, and discrimination against liberal and Jewish teachers was bitterly resented by the majority of Frenchmen. But they desired more than a re-establishment of the old system.

One of the most significant portions of the Charter of the National Council of Resistance was that in which all parties united in supporting a common educational reform for France which would embody for all an "effective opportunity to learn" and "access to the highest culture, irrespective of the income of their parents." Yet the problems in the way of implementing such pledges have not been the least of those facing French governments since Liberation.

### **Aid to Public and Private Schools**

To provide adequate facilities at the primary and secondary school levels has been one of the major difficulties in France as in Great Britain. In France, however, this problem is not merely one of building more schools; it is tied up with one of the most controversial issues in the country: the provision of aid to the private denominational schools which in practice are those controlled by the Catholic Church. About 20 per cent of the primary school children in France are enrolled in Catholic schools as are about 40 per cent of secondary school children. In most cases, parents send their children to these schools because they wish them to have denominational training, but in many areas it is also because public school facilities are far from adequate for the number of children of school age. Yet regardless of the reason why parents send their children to private schools they must both support these schools and pay in addition the normal school tax to the state authorities.

The problem would be easier to meet if there were not such bitter feeling between the supporters of the state schools, which are committed to the republican civic virtues and the morality of the "*honnête homme*" but avowedly non-clerical and neutral in religion, and the denominational schools which operate on the principle that no line can be drawn between religion and education. Moreover, as already pointed out (p. 247) both the state system of education (particularly the primary schools) and the denominational schools openly vie for control of the younger generation.

Not surprisingly, therefore, there was prolonged and acrimonious debate in the Assembly when the issue of support for the separate schools was brought up following the 1951 election. Under legislation passed by the second Plevin Ministry, however, the state did assume some obligation for the education and maintenance of private as well as public school students. National scholarships were established for secondary school students whether in public or private schools so long as the latter can meet certain criteria regarding teachers, hours of instruction and so forth. At the same time the measure assigned additional credits to build

schools and employ more elementary school teachers. A second measure authorized funds to be distributed on a per capita basis for all students between six and fourteen years of age attending elementary grades in either public or private schools, the money for the public schools to be administered by the department general council (see p. 373) and used primarily for the upkeep and improvement of school buildings, and for the private schools to be administered by Parents Associations and used primarily to increase teachers' salaries. Thus the legislation directly attacked the two greatest bottlenecks in the provision of adequate education—the lack of public school facilities, and the sub-minimum salaries paid teachers in most of the private denominational schools—in the way that seemed least likely to exacerbate what remains a touchy problem.

### **Proposals for Change in the Educational System**

Well before these decisions were reached, striking proposals for change in the educational system had been made by the Langevin Commission on the Reform of Education which represented all political groups and presented its report in 1947. The Commission set its sights high agreeing on "the necessity of all the children of France receiving the maximum of culture compatible with their aptitude" in order to form "an elite not only specialized but cultivated," an elite, moreover, which would be the product not of social segregation but of equality of opportunity.

To secure true equality in an educational system is not easy, however, and many of the proposals of the Langevin Commission have proved to be beyond the means of the French state and, perhaps as important, to be too startling for ready adoption. Thus while the Commission recommended raising the age of compulsory school attendance from 14 to 15, and ultimately to 18, no change was made by the first Assembly, and the subsequent Delbos plan for school reform suggests compulsory attendance only through 13, with optional supplementary courses for the less able students from 13 to 16. (The peasants have long complained that a school-leaving age of 14 is too high.) Further, the proposal for a

*presalaire*, or salary, to be paid to students in professional and technical schools, especially those training to be teachers, has been judged impractical. Already the number of students entering the universities has increased so greatly that such a proposal would be a great drain on public resources. Indeed, many feel that the increase in numbers has already lowered the standards in the universities, and seriously overcrowded the professions.

This is not to say, however, that the recommendations of the Langevin Commission have had no effect; on the contrary, there have been two important reforms in the French educational system which may ultimately have wide influence on the whole system. The first and probably most significant reform is the introduction of the "*classes nouvelles*," which, in place of the traditional French concentration on intellectual studies, provide flexible and varied programs in line with student interests and abilities, and practical student projects, such as are characteristic of American progressive education. Originally intended as a bridge between elementary and secondary schools, the approach of the *classes nouvelles* has already been adopted for the work of more than one year (it is optional for individual schools), and ultimately may lead to greater freedom of choice and opportunity for self-development for students in all stages of secondary education. The second major change is the introduction of an additional year of general studies after the baccalaureate examination instead of, as formerly, accepting that certificate for entrance to the universities and other schools of advanced learning. This additional year has been criticized as undemocratic because of the additional cost to the individual but, like the *classes nouvelles*, it is a move towards liberalizing French education.

An additional important development has been to take training for the higher civil service out of the control of the *Grandes Ecoles*, and to establish a route open to merit through the new Political and Social Science Institutes, and the National School of Administration (see p. 359).

The Langevin Commission, and other reform groups, would like to change the general structure of the school systems so as to replace the

overlapping systems of primary and secondary schools with three stages (somewhat like those now established in the British educational system) through which every child would pass. Such a reorganization would permit determination of aptitudes at a somewhat later age than at present. These groups also recommend transforming the independent *Grandes Ecoles* into professional institutes affiliated with the universities, and co-ordinating the studies provided in the faculties, institutes, and professional schools of particular universities, and by different universities, particularly those in Paris and the provinces. Such changes would have nation-wide effect because of the high degree of national control and centralization already existing in the French educational system, and the close relationship between French education and national life. That they are being considered so seriously reflects the awareness that educational reform has much to contribute to French society.

## II. THE POSITION OF LABOR

Although in the long run educational reform may make the most fundamental difference in social structure, the present position of the workers is the most obvious indication of social and economic change in contemporary France. In comparison with workers in Great Britain and the United States, those in France have been in an extraordinarily weak position in the past. Collective bargaining was introduced in France only shortly before World War II, and was far from well established. That it is now the recognized method of handling matters at issue between labor and management, such as wages and conditions of work, is the most significant advance yet made by French labor.

### *The Works Committee*

France is also experimenting with certain new institutions known as *works committees* which are intended to give labor a share in the organization and operation of industry. The works committees are the outgrowth in part of certain rather vague suggestions by the Resistance Council and General de Gaulle's group in London

that the trade unions should assume some direct managerial responsibilities in joint stock companies. More important was the fact that committees of workers and technicians sprang up spontaneously towards the end of the war to assume control when collaborationist owners fled or to share control when employers were more patriotic. To direct and accelerate the movement, the De Gaulle government, by a decree issued early in 1945, set up works committees, composed of both employers and employees, in all industrial and commercial enterprises employing more than one hundred persons. In May 1946 the decree was extended to cover all firms employing more than fifty persons. By 1948 more than 10,000 committees had been set up, about 75-80 per cent of the number envisaged by the legislation.

A works committee consists of the manager, or his representative, and a staff delegation varying in size according to the number of employees, rising from 2 for a staff of 50, to 5 for a staff of 100-500, and so on. All employees over 18 who have completed six months' service may vote, and those of the age of 25 with a year of service are eligible for election to the committee for a one-year term of office.

The works committees have both social and economic functions. In social matters they manage such activities as housing projects, cafeterias, day nurseries, medical care, holiday camps, libraries, and retirement funds. In performing these functions they have the privileges of bodies corporate which may acquire property and conclude contracts. Their work is financed by contributions from the employer and personnel, subsidies from public bodies and trade unions, or gifts. It is in this field that the committees have scored their most obvious successes, freeing welfare measures from "paternalistic" control, and in some instances making notable advances.

In economic matters, where they have only consultative functions, the works committees attempt, though with scant success, to ensure close collaboration among the employer, technical staff, and workers in each enterprise. They study staff and management proposals for increasing output or improving production methods and may reward workers for suggestions or the display of initiative. More significant, at least in

form, is the right of the works committees to make proposals relating to the general organization and management of the establishment and the legal requirement that they must be consulted by employers on these matters. Most radical of all is the provision that the committees should be informed of the profits of the undertaking and consulted on their use. In addition, the works committees are supposed to have the right to question the auditors concerning the company's financial statement, to receive all the documents submitted to the shareholders, to send two representatives to board meetings, give opinions on price-fixing and price increases, and discuss wages.

The conception behind the legislation establishing the works committees is a particularly bold and daring one. Just as the way has been opened for civil service employees to share in broad semimanual functions in the ministries (p. 363), so this legislation seeks to give labor in private enterprise a formal share in determining, or at least influencing, the policies of their firms. Private enterprise proved less receptive to the notion, however, than was the government service. Through systematic opposition, employers' organizations succeeded in eliminating most of the provisions in the original legislation which would have given the works committees an effective share in management. In technical questions and problems of organization, there is a certain amount of useful co-operation, but almost none in the general direction of enterprises. There have been a few instances of profit-sharing but more frequently discussion of finances has only led to friction. Thus the effective influence of the committees over the conduct of business has been whittled to almost nothing.

Some critics are even more concerned, however, that the works committees do not have any real measure of authority over the workers, or even command much interest. They fear the committees are, in the words of one skilled observer, "just one more instrument by which the union movement exercises its grip on the working class, mainly through the administration of welfare activities."

Potentially, the works committees are a means of extending the influence of workers over the operations of their enterprises and of bringing the



principle of joint administration, which prevails in nationalized undertakings (p. 364), into private industry and commerce as well. But it is clear that the importance of the committees is no more than potential. In the light of the strength of labor throughout France, it might be judged that they would become increasingly influential; on the other hand, the experience of the Soviet Union indicates how easily they could become the tool of a governing group (p. 519). So far, the works committees have had their chief significance in the "battle for production," and their value in the future may lie chiefly in the stimulus they give to individual efforts.

### *The National Labor Council*

The apex of the new system established by the labor laws is the *National Labor Council*, established in May 1946 to replace an earlier body suspended at the outbreak of war but not brought into existence till considerably later. The National Labor Council is an advisory body, representative of employer and employee organizations and farm groups, which is attached to the Ministry of Labor and Social Security and is presided over by the Minister of Labor. All social and labor problems, apart from social security, are within its competence, and it may study and report on questions either independently or at the request of the government. Also it has the right to be consulted on all labor laws and regulations at the time they are being drafted. Thus, at least in form, labor and employers in private enterprise share in shaping the government's decisions on their future.

### III. SOCIAL SECURITY

Although the Fourth Republic has adopted the objective of a broad social security plan covering all groups in the community, this goal is as yet far from realized. For though social security has now been expanded beyond the high point reached under the Popular Front (see p. 340), it is still not nearly so comprehensive or unified as the British plan.

Social security in France covers wage earners in industry and commerce, except those already under special plans defined by law, and there is

steady, if slow, progress in bringing these special groups into the general scheme. But apart from family allowances, social security legislation applies exclusively to those employed by others—only about 60 per cent of the active population, or 12 out of 21 million—and thus leaves out the self-employed, employers, and those without occupation. Unemployment benefits, which social security does not include, are not so easily available as in Great Britain, and are subject to a means test.

The objective of the French program of social security, in fact, differs from that of Great Britain in being primarily concerned, not with the maintenance of purchasing power and full employment (since these are not matters of pressing concern in France), but with the social problem of increasing the population. As a result, there is heavy emphasis upon maternity care, children's welfare, health insurance, and family allowances. At the same time, family allowances (which are paid to the mother) are receivable only by those families where the wage earner is employed (including self-employment), or are willing to take positions which are offered.

Family allowances, which have existed in France since 1932, are paid by the employers. Another distinctive feature of the French family allowance plan (which has a more important place within the general social security system than in any other country) is the increase in benefits according to the number of children. Since wage scales are rather low, a father with four children may receive as much in allowances as he receives in his pay check. In addition, there are special grants for workers with particularly small salaries and for those needing prenatal care. These are all part of the government's surprisingly effective efforts to increase the birth rate (see p. 238).

Maternity insurance covers hospital, medical, and pharmaceutical expenses for insured women and the wives of insured men, and there is a daily allowance for six weeks before and eight weeks after childbirth if all paid employment is given up during at least six weeks.

The French plans for medical care differ from those in Great Britain because the opposition of the French medical profession to a national health service has been more effective than that of the British. The French plan for medical

care concentrates on protection through insurance. In consequence, medical care continues to be private as before, but scales of fees have been established in different districts, and ordinary medical expenses are covered by insurance up to 80 per cent. Sickness benefits are also high, equaling about half of the worker's take-home pay. Moreover, to make coverage more complete, insurance against prolonged illness includes the right to medical care and, in addition, to a monthly allowance for three years. As in Great Britain, special attention is being given to the health of school children; free medical examinations are now compulsory for the first time.

Arrangements both for administering and financing French social security plans are more diverse and more complicated than those in Great Britain. There is, for example, still a separate scheme for employment injuries insurance, which is administered apart from the social insurance system for sickness, maternity, and death. Ultimately it is hoped to have a single unified system of social insurance; as a step towards this, and towards extending social insurance to the whole population, the limitation of insurance benefits to those in the lower salary brackets was abolished in October 1945 for both the systems mentioned above.

In the most widely used means for administering social insurance, insured persons and workers' representatives play an influential role which finds no parallel in Great Britain. In place of the single national organ which the British have adopted, the French have three tiers of social security funds—local, regional, and national—each covering an area fixed by the Minister of Labor and Social Security. Each of these tiers is administered by boards on which insured persons and workers' representatives have heavy representation, particularly at the local and regional levels. Only at the national level is the government substantially represented. Thus though the French system for administering social security may seem excessively complicated, it has the advantages of decentralization and direct participation by the interested parties.

Another difference from the British system is that the French government is not one of the contributors to the social security system though it frequently has to make up its deficits. (Also the

Court of Accounts checks the accounts of the social security system [see p. 348].) Where in Great Britain the government bears part of the cost of social security, sharing it with individuals and employers, the French social security plan is supposed to be financed almost entirely by the contributions of wage-earners and employers. These contributions amount to 35 per cent of the total wage bill, of which the employers pay 29 per cent, and the workers 6 per cent (the employers pay all of the family allowances, as already stated, and also for industrial injuries).

Something might be said in opposition to these financial arrangements which, at a time when rationalization and increased output of industry are decisive for France's economic position, may seem to place a heavy drain on employers. Since early in 1949, in fact, the social security system has been under fire from the right-wing parties, which are obviously reflecting the interests or at least the sympathies, of management and resent the fact that the system is seriously in debt. On the other hand since labor's total share of the national income has not risen since World War II (unlike the situation in Great Britain, p. 11), if indeed it is even as high as it was in 1938, social security payments, particularly family allowance grants, are in practice not unlike a subsidy on wages related to need. As now operating in France, social security involves a redistribution of workers' income in the favor of the aged, sick, and those with large families, rather than any overall improvement of the standard of living.

### Conclusion

In education, labor policies, and social security the French under the Fourth Republic have introduced some novel and striking conceptions designed to make their social structure more equalitarian and thus more in harmony with their basic ideals. Their educational plans are promising. So, too, is the conception behind the provisions whereby employees in private industry, as well as those in nationalized industry and the ministries, share, in theory at least, in certain social and economic responsibilities, formerly the exclusive sphere of management. Moreover, to associate insured persons and workers' representatives in the administration of

social security, particularly at the local level, is to establish functional representation in a distinctive and useful manner.

In fact, some of the French plans seem in appearance more far-reaching than those introduced in Great Britain. But it is far from certain that their effect will be as great. In French industry, for example, as we have seen, employers have offered a good deal of obvious opposition to allowing the workers any real measure of influence on economic policies. More surprising, and perhaps even more significant, is the fact that there has been relatively little enthusi-

asm among workers for their new role in industry. Thus, though the French plans for labor's share in management seemed destined to work a minor revolution, their effect in practice has been much less than could have been expected.

It is clear that change is at work in the social structure of France. But at least in the initial stages there has been a less concerted and unified effort to carry out new aims than has been true in Great Britain. Thus, though social change is affecting France, its course is neither so swift nor so sure as in Great Britain.

## CHAPTER 10

# France and the World

Though deeply involved in the major issues of world politics, France is no longer strong enough to play a decisive role. Less than a century and a half ago France was the strongest power in Europe. Even between the end of World War I and the rise to power of Nazi Germany, France dominated the Continent through its army and its alliances in eastern Europe. But since World War II France has not only been much reduced in strength, largely as a result of the drain of the Nazi occupation, but is much less influential in European affairs than formerly because of the active political role which the United States, the Soviet Union, and Great Britain are playing.

Yet France is still as strongly committed as ever to its traditional aims of maintaining an important European and world position. "The true religion of France is France," a foreign observer once remarked. At its worst this devotion to country has exhibited itself in the "self-will of an irritated nationalism." At its best it has sought stability throughout Europe and the beneficent spread of an advanced culture. It is still not beyond hope, many Frenchmen believe, that a France which can no longer secure its purposes through military strength may achieve them through moral and cultural leadership.

In a period of active power politics, however, France seeks two major objectives: the unifying and strengthening of Western Europe as the unit within which France can exercise effective action and the maintenance of the integrity of its empire. With Western Europe organized in line with French ideas, France could not only develop a workable relationship with its old enemy Germany but also promote its aims through an entity large enough to pursue inde-

pendent policies *vis-à-vis* the Great Powers. With the support of its empire, France can lay claim to being a "country of 100 million inhabitants," as a French general once boasted.

### I. THE FRENCH EMPIRE

Like the British Empire, the French Empire is today in the process of change. But because the French Empire grew up in a different way from the British Empire, and because the colonial policies of the two countries have been very different, change in the two empires is taking place in two very different patterns. What is happening to the French Empire under the Fourth Republic (which is establishing not only new colonial policies but, more strikingly, new machinery through the French Union for unifying colonial areas with metropolitan France) can be understood only in relation to earlier developments.

Compared with the British Empire, the French Empire, is a relatively modern creation, almost entirely the work of the Third Republic. In 1870 there were 2,800,000 people in the empire outside France; in 1950 there were nearly 70 million. Directly across the Mediterranean, almost like an extension of metropolitan France, lie the most valuable territories of the French Empire: Algeria, Morocco, and Tunisia with over 18 million inhabitants. Beyond the Sahara Desert are French West Africa, Equatorial Africa, Togoland and the Cameroons with nearly 25 million people. On the other side of the world is Indochina, also with 25 million inhabitants. Apart from these, the units of the French Empire are widely separated.

Moreover, with the single exception of tiny

## PROTECTORATES

[illegible]

**TRUST TERRITORIES**

St. Pierre and Miquelon, all the territories of the French Empire are colonies of exploitation and not of settlement. One and a fifth million Frenchmen have made their homes in North Africa and overlaid the native life with French civilization; there is a slow but steady migration to French West Africa today. But except for the sixteenth- and seventeenth-century colonization of Canada, the French have shown little of the sustained enthusiasm for peopling new lands which carried the British to the American colonies and later to Canada, Australia, New Zealand, and South Africa. Even in North Africa the French are in a small minority, and throughout the rest of the empire they are to be found almost entirely in the positions of officials, commercial agents, or managers of industrial enterprises dependent on native labor.

To the French, however, the empire is not something alien but a close possession, increasingly akin to France itself as French institutions, language, and traditions are grafted on to the native peoples. This development is the result in large part of the policy of "*assimilation*," whereby France, with the crusading fervor which springs from the tradition of 1789, has sought to transform the colonial peoples into "Frenchmen" as quickly as possible and to duplicate for them the political conditions of metropolitan France. The policy of assimilation has usually meant direct rule in colonial territories by French administrators, and always the superseding of native customs and dialects by French culture and language. Though in some areas assimilation has affected the whole native population, greater emphasis has been placed in recent times on "*association*," which seeks to transform only the native elite into "Frenchmen." This elite is then given a share in the administration of their own territories and even associated with the government of France. Thus a Negro, Felix Eboué, became one of the greatest Governor-Generals in the empire, and was decisive in swinging French Equatorial Africa to the side of the Free French during World War II. Moreover, native representatives sit in the French chambers, visible evidence of the absence of social discrimination on ground of color which is one of France's strongest advantages in its relations with its colonies. Though the policy of association tends to separate native elites from the masses, the objective behind the

policy of association is essentially that of assimilation: that is, it seeks to extend the influence of French culture throughout the colonies, and to maintain Paris as the undisputed center of the empire.

This is the characteristic difference between French and British colonial policies and aims in modern times. The British increasingly seek to develop individual colonies to the point where they can assume responsibility for their own future. At that point, as they have demonstrated with India, as well as with other members of the Commonwealth, they are prepared to release a control which had become irksome and to trust to the bonds of tradition, friendship, and mutual interest to retain a working partnership. The French put partnership first. They seek to make colonial development contribute to a greater awareness of the values of French culture (which they believe to be universal values) so that colonial peoples will feel that their own self-realization is best achieved in full harmony with France.

There have been two great periods of evolution in the French Empire: the period up to 1939, and the period since that date. At the close of the first period, the French Empire included a bewildering variety of forms of government and stages of growth which reflected the degree to which assimilation had become effective. The second period especially since 1945 is marked by the effort to devise more uniform institutions within the colonies and also an over-all structure, the French Union, within which all the units of the empire are closely united with metropolitan France.

### *The Units of the French Empire in 1939*

In 1939, at the outbreak of the war, the French Empire included four fairly distinct groups, each with a different relationship to France. One of the most distinctive units was *Algeria*, which the French themselves did not call a colony since it had long been organized into three departments which sent representatives to the French chambers and was controlled by the Ministry of the Interior. This indication of complete assimilation was misleading, however, for only Algeria's French settlers had French citizenship, though they were outnumbered eight to one by the Arab and Berber noncitizens.

Moreover, Algeria's old and complex civilization led it inevitably to resist assimilation.

A second distinctive group consisted of *Morocco* and *Tunisia*, which were protectorates. In form, these areas were governed by their own native rulers, and their relation with France was handled by the Ministry of Foreign Affairs, but in practice the rulers were only French puppets whose sovereignty was merely theoretical. This fact increasingly acerbated the Arab nationalism in both areas. As with British protectorates, none of the native inhabitants of these areas possessed full French citizenship.

All other parts of the French Empire came under the Ministry of Colonies. The "*old colonies*"—Martinique, Guadeloupe, Réunion, St. Pierre and Miquelon, Guiana, Senegal, Cochinchina (part of Indochina), and French India (five ports in the sub-continent of India)—had long been subject to assimilationist policies but only the first four had responded fully. The Indochinese resisted because of their own ancient and rich culture; Guiana rather because of sparse settlement. All these colonies possessed the right to send representatives to one or both of the French chambers, a right exercised as in Algeria by the minority possessing French citizenship; some like Cochinchina were subject to direct rule from France and others like Martinique had much the same municipal institutions as France itself.

The rest of the French Empire—the federations of French West Africa and French Equatorial Africa, Madagascar and the Comoro Islands, French Somaliland, New Caledonia, and French Oceania, most of which were in a backward stage of social and political development—was ruled directly from Paris. In most of these colonies, there were only a handful of Frenchmen, nearly all in government posts. Similar forms of government were used for France's two mandates (now trusteeships), Togoland and Cameroons.

### **The Movement for Reform**

Prior to World War II nationalist movements had been less common within the French Empire than within the British. But the example of growing self-government in the British Empire, the philosophy of social and economic equality

of the Soviet Union, and American criticisms of colonialism had had some effect on native opinion in the French colonies. Moreover, the over-centralization of French control was resented, particularly in Algeria, while the abrupt superseding of native institutions by French ones had caused great discontent in Indochina. Though there was widespread support in the colonies for the Free French during the war, there was also growing nationalist agitation in both the African and Asian colonies. This agitation, coupled with revolts in Indochina and serious riots in Syria and Lebanon (French mandates which achieved their long-promised independence after World War II), made imperative the introduction of a program of reform for the French Empire.

Even before the end of the war, the French Provisional Government tackled the problem of giving the empire a more coherent form by calling a conference of the governors of its African colonies at Brazzaville early in 1944. At this conference, however, two sharply divergent approaches emerged: that of the natives who wanted self-government within a federal framework, and that of the French administrators who pressed for assimilation of the empire into a unitary state. Since that time, French imperial policy has sought a compromise between these approaches, but without conspicuous success.

### **The Empire's Share in Making the New Constitution**

Lacking a settled policy on the empire, De Gaulle suddenly determined to have the colonies, and even protectorates, share in the making of the Constitution of the Fourth Republic and thereby in shaping their own future. The decision was a momentous one. In the first place, it meant that the future of the empire would be considered side by side with the future structure of France itself, and that the same party divisions would affect the decisions on both. Secondly, and perhaps in the long run even more significant, De Gaulle's decision established the principle that the divisions of the empire had a voice in constitution-making. Such a principle could never be rescinded and might conceivably enable the colonies at some future date to hold the balance of political



power in Paris, as their representatives threatened to do in the course of the Second Constituent Assembly. Thus the colonies might turn the tables and make the decisions in French domestic issues.

Representatives from the colonies for the Constituent Assembly were chosen through electoral colleges, which also had some future significance. All French citizens and certain limited categories of noncitizen natives in the empire could vote. In order to prevent the French in certain areas from being outvoted by the much larger numbers of natives, separate electoral colleges were sent up throughout "Black Africa," and also in Madagascar and Algeria. In the "old colonies," in contrast, there were only single electoral colleges in which French and natives had the same status. In the protectorates of Morocco and Tunis only French citizens were allowed to vote.

In the course of the two Constituent Assemblies the future of the French Empire was argued vehemently and with increasing divisions of opinion both between the parties of the Left and the M.R.P., and between the natives and the French in overseas territories. The Left and the natives favored building a federal commonwealth from the ground up by extending self-government to the various units of the empire, giving the natives full rights of citizenship within them, and allowing majority rule full play, which in practice would mean vesting control in native hands. The M.R.P. and the French overseas wished to establish the framework of a federal commonwealth immediately (so that the empire would not fall apart while it was being turned into a commonwealth) and to guarantee the French minority a share in the government of each colonial unit.

The final outcome was a compromise between the M.R.P. and the native leaders who were represented in the second Constituent Assembly. The loophole of possible secession from the empire was plugged, but more autonomy was to be granted to local units, the decision on the amount and character of local self-government being left to the National Assembly. The white colonist minority was assured special representation through continuation of the double electoral colleges, but native feelings were somewhat assuaged by putting the provision in an

ordinary law and not in the Constitution. In addition, all native peoples in the colonies were made "French citizens" as well as "citizens of the French Union" and thus, in as far as local law allows, acquired votes for electing representatives to the National Assembly and Council of the Republic as well as to the new Assembly of the French Union. A distinction was made for the people in the Associated States (a category intended to replace that of protectorate) who became "citizens of the French Union" only. Finally, the Constitution of the Fourth Republic established a new political structure, the French Union, whose machinery links France's empire and its metropolitan area.

### *The French Union*

The French Union is the most unusual new political feature of the Fourth Republic. Moreover, it is difficult to define for both its aims, as laid down in the preamble to the Constitution, and its structure, as described in Title VIII of the Constitution, exhibit the prevailing indecision between establishing a federal system for autonomous units, and enforcing assimilation.

The assimilationist emphasis is reflected in the categories of members. According to Article 60, the French Union is composed "on the one hand of the French Republic, which comprises Metropolitan France and the overseas departments and territories, and, on the other hand, of the Associated Territories and States." "*Departments overseas*" refers not only to Algeria but also to Martinique, Guadeloupe, Réunion and French Guiana which are now completely assimilated politically. Thus legislation valid in metropolitan France applies to Algeria and the other overseas departments if so specified. The other colonies are now called "*overseas territories*," except for France's trust territories, Togoland and Cameroons, which are known as "associated territories." In practice, both categories are treated the same way, that is, the French Parliament legislates for them as far as political and administrative organization, public rights, and crime, are concerned. Otherwise, French law is applicable only as specified or in accordance with a decree approved by the Assembly of the French Union. Both departments and

territories overseas are said to be part of the French Republic and thus neither group has an independent role in the French Union. Thus the only independent units in the French Union apart from France itself are the *associated States* which are partially autonomous, with their exact relationship to France defined by treaty. This category was expected originally to include Morocco and Tunisia but neither of these protectorates has yet accepted the status. In 1949, Viet-Nam, Laos, and Cambodia, the three states of Indochina, became the first associated States of the French Union.

The organs of the French Union—the President, the High Council of States, and the Assembly—are quasi-federal in form but in fact, except for the High Council (though it had its first meeting on November 29, 1951, the relationship between France and the associated States is not yet settled), they are geared into the governmental machinery of France itself. The President of France is *ex officio* the President of the French Union. As such, he summons and adjourns the Assembly, enacts with the Council of Ministers decrees for the different territories after consulting the Assembly, and appoints with the Council of Ministers the representatives of the Government in overseas areas. Thus his role is extremely important both for the individual overseas units and for the development of the French Union as a whole; and President Auriol has fulfilled it with great seriousness. But at the same time, the French Union can have no share in the President's election, and little enough influence on his decisions which, of necessity, must be countersigned by the Premier.

The Assembly of the French Union is largely an advisory body which has relatively little prestige except in the overseas territories. Elections for this body are all held at one time and six-year terms are served by all members, 75 of whom are selected by the local assemblies in the overseas departments and territories, and 75 by the French chambers by proportional representation based on party strength, 50 by the National Assembly and 25 by the Council of the Republic. The French chambers can also elect additional members up to 45 to match the representatives of the associated States; since Viet-Nam, Laos, and Cambodia send 27 members to the Assem-

bly the total number in that body is now 204. No deputy or senator may be at the same time a member of the Assembly of the French Union though they are eligible for election. As far as power goes, the Assembly of the French Union is severely limited: thus it can only vote resolutions relating to legislation in the overseas territories and the National Assembly can ignore these if it so wishes. Moreover, although the National Assembly can refer measures affecting overseas areas to the Assembly of the French Union, it rarely does so. Thus the only important function possessed by the Assembly is the consideration of the stream of decrees which still form the bulk of legislation for overseas territories and which must be referred to it by the Government for its approval.

At least in its initial form, therefore, the French Union is little more than a façade. The struggle with the Communists in Indochina has not only drained French military strength but has kept the status of associated States for Viet-Nam, Laos, and Cambodia from having much significance; nationalist sentiment in Tunisia and even more in Morocco has kept these areas from accepting the new status. Thus this potentially federal element in the French Union has not yet had much effect. For the rest, it might be said that the major change is that France no longer stands in opposition to its colonies but that it has virtually absorbed them by itself becoming an integral part of the French Union.

### *Native Representation*

Power over the empire continues to rest, therefore, in the hands of the National Assembly and the French Cabinet. For that reason, a second, less publicized development affecting the colonies—the extension of *native representation in the French Chambers*—may have more effect in the long run than the elaborate machinery of the French Union. As already pointed out, certain overseas areas have long sent members to the French Chambers. But under the Constitution of the Fourth Republic all overseas areas (except the protectorates and associated States) now send representatives to Paris. Although citizenship was conferred en bloc on all members of the French Union (see

p. 410), local electoral laws govern the exercise of the franchise and in general restrict it to Frenchmen and the more mature natives or elitist groups. Representation of overseas areas is far from proportionate to population, but the native representatives now occupy about 10 per cent of the seats in the National Assembly and 20 per cent of those in the Council of the Republic. Not only is this a source of power in relation to overseas matters; the presence of about seventy-five overseas representatives in each Chamber introduces an additional source of instability into French political life, since various parties vie for their votes, the Communists most assiduously of all (see p. 312). It is also not outside the bounds of possibility that the native representatives, if they banded together, might hold the balance of power in the National Assembly.

Along with this twofold development at the center has gone the extension of *local self-government* to colonial areas. All French overseas areas now have representative assemblies. Those which are organized as departments are each headed by a *prefect*, who has about the same relation to the local assembly as the prefect in Continental France has to the departmental council (p. 371). The overseas territories each have a Governor who is the agent of the French Government and directly responsible to the Ministry for Overseas France. The local representative assemblies control the local budget within certain specified limits and serve in advisory and consultative capacities to the Governor in matters of local and social concern. The French government, however, reserves control over general commercial, political, and diplomatic matters, as well as military defense.

This development differs markedly from what is happening in the British colonies. The British aim is to develop each colony in terms of its own particular needs and aptitudes. The result is a wide variety of forms and stages of growth, forming no clearly defined pattern except in general progress towards self-government. In contrast, French plans are schematic and unified. Some distinction is made in suffrage between areas like Senegal, St. Pierre and Miquelon, and New Caledonia, which have universal direct suffrage in electing the assemblies, while other areas have more limited and

indirect suffrage. But, in general, all overseas territories and departments have received approximately the same institutions for self-government at approximately the same time.

In comparison with the British approach, the French plan for aiding self-government in its overseas areas has both strong and weak points. There is no danger with the French approach, as there has been at times with the British, that some area may be overlooked and thus starved of the opportunity for development for which it is ready. On the other hand, some areas in the French Empire do not seem to have been sufficiently prepared for the new institutions to make much use of them. In particular, many of the overseas departments and territories have not yet developed political divisions which reflect local conditions, and the attempt to transplant French political party divisions into them has resulted in emphasizing largely artificial issues. This artificiality could well stultify the growth of genuine parliamentarianism.

One further difference from British colonial practice is obvious. The British hold out to every colonial territory the expectation that they will pass through the political tutelage of semi-independence into autonomy, Dominion status, and free association in the Commonwealth of Nations as India, Pakistan, and Ceylon have done (see p. 217). Moreover, they envisage the right of secession of which Burma took advantage. The French refuse even to consider the possibility of secession. The key note of their colonial policy is laid down in the preamble to the Constitution: "Faithful to her traditional mission, France proposes to guide the peoples for whom she has assumed responsibility towards freedom to govern themselves and democratically to manage their own affairs." While it would be unfair to assume that the promise of self-government is illusory, the French, and in fact many of the native elite, believe that self-government must inevitably be within the larger structure of the French Union and thus exercised always under the leadership of metropolitan France.

### *Economic and Social Developments*

Important as colonial political developments may be, the ultimate success of the colonies in

developing any genuine self-government rests in large measure on the soundness of their economic and social foundations. Like Great Britain, France has recognized the necessity of furthering economic development and educational reform in its colonies. In 1934-35 the first French Imperial Conference drew up a Fifteen-Year Plan involving the expenditure of over 330 million francs on colonial development. The National Constituent Assembly affirmed its intention of continuing this program by empowering the Minister of Overseas France to draw up development plans and to form state and "mixed" companies for particular projects to be financed by a Central Bank of Overseas France and through an investment fund, supplemented by government subsidies for the local territory.

The French approach to economic development in its overseas areas differs in two particular respects from the British. In the first place, the ten-year plans for each of the French colonies were not based on plans by the colonies themselves as were the British but were drafted and put into effect by Paris. Moreover, no definite sum is allocated to the plans but a specific amount is voted each year. The money is controlled by a committee in Paris known as FIDES (*Fonds d'Investissements pour le Développement Economique et Social des Territoires d'Outre-Mer*) whose income derives from the annual parliamentary grants, advances from the Central Bank, and contributions from the overseas areas. Thus in place of the British practice whereby the central government adds its contribution to what the colony raises and both are spent by the colonial administration, the central government in France both controls and allocates all the revenue raised by the overseas areas as well as that contributed by itself and no local money goes directly into local development projects. The allocation of funds also tends to differ: the French according to their master plan for overseas development drawn up in 1947, provide 27 per cent of public funds for social services, 22 per cent for production, and 47 per cent for transport, where the plan for Nigeria, for example, gave 55 per cent to social services, 10 per cent to production, and 24 per cent to transportation. For the direction of production, the French favor specialist com-

panies of which the two major ones are for oil-seeds, and mining, whereas the British Colonial Development Corporation is responsible for a wide variety of types of production.

In general economic arrangements there is also a marked difference between British and French policies. Up to 1932 the British had neither a systematic program of tariffs for themselves nor for the colonies. Under the Ottawa Agreements (p. 220) tariffs were established to make possible more generous imperial preferences to the Dominions. But except in regard to currency, and then as part of the sterling area, the British have not striven to make their empire a closed economic system. The French, in contrast, have long looked on their empire as a market for French exports. Not only nearby Algeria, but also Indochina, Madagascar, and French Guiana were completely within the French customs area before World War II, and Tunis, New Caledonia, and French India had been brought within a preferential tariff system. Where colonial trade with France was less than 10 per cent of France's total commerce in 1920, it was nearly a third by the middle of the thirties. Moreover, France strongly discouraged colonial industries which might compete with its own, and imposed import duties on most colonial products.

One development which may modify France's traditional economic policies toward its colonies is the growing trend toward regional planning with other colonial powers. The French participate in the Caribbean Commission and the South Pacific Commission (p. 210), but even more important is the common planning with Great Britain, Belgium, and other African powers for the joint development of their colonies in Africa. This development has not only economic but also strategic motives behind it, for the French and British are keenly aware of the value of building a large defensive area in Africa to reinforce their own diminished national strength.

Side by side with measures for economic development in its colonies, France is encouraging measures leading toward social security and the improvement of native education. As might be expected, the characteristic aims in the latter field are the traditional ones of assimilation and

association. French plans for colonial education are even more elaborate than the British; the French intend to establish an elementary school in every colonial village in which there are at least fifty children of school age. But in contrast to the British, who believe that a popular mass education movement must rest on literacy in native languages, and that English should be employed only at more advanced levels, the French insist that instruction at every level of education should be in the French language. Coupled with this policy are generous provisions for native scholarships to bring the best of the native students to France to complete their education.

Yet it is questionable whether in the long run France's tight control (in practice) over its empire is compatible with its policy of assimilation and association. A French writer has pointed the issue in saying "France cannot educate elite groups—and that is her real mission in the world—unless she intends to use them. Does one heat a boiler if one does not intend to use its steam?" If France is "making" French citizens, as it maintains, must it not also give them the real powers of citizenship?

The danger of the French approach to the problems of empire is that it may sacrifice flexibility to neatness; that in its eagerness to hold its colonies close, France may stifle their initiative or bottle up nationalist feeling until it becomes explosive, as in Indochina and even North Africa. The idealism behind the expansion of French culture has been one of its strongest appeals; there is danger that it will be turned to the purposes of political ambition.

On the other hand, if the French approach is successful, it will create a much more unified empire than Great Britain will have. The binding force of a common French culture and of closely integrated economic arrangements may provide the conditions out of which ultimately the French Union could acquire power and significance as the political expression of a progressive federalism of the whole empire. More significant for France at the moment, however, a unified empire contributes to its economic position and its manpower. Thus France is straining to retain and build its empire as an essential element of its power position in the world.

## II. FRANCE ON THE CONTINENT

The second and even greater goal for France is to strengthen its position on the Continent. In practice, this goal has often been interpreted in terms of France's position in relation to Germany, by which it has been invaded three times in three-quarters of a century. Despite the destruction in Germany during World War II and its *de facto* partition between the East and the West, France cannot forget that there are still seventy million Germans in central Europe and only forty-two million Frenchmen in France's metropolitan area, and that Germany's natural resources give it a far stronger industrial capacity than France can hope to attain. To redress the balance France has sought at different times to exercise some control over the territory or resources of the Saar, the Rhineland, and the Ruhr, either directly or through joint agreement as in the Schuman Plan, so as to assure an adequate supply of German coke for its own iron ore in Lorraine, and so that Germany will not have unrestricted use of the products which have contributed so directly to its military resources and heavy industrial plant. France has also sought to strengthen itself through alliances, in the pattern of policy between the wars, though currently it is chiefly concerned to co-ordinate and unify Western Europe and to build sound strategic relations with the United States and Great Britain.

Failing after World War I to secure either the strategic control of the Rhineland or a military guarantee from Great Britain and the United States, France had sought security by insisting that Germany adhere to the letter of the peace treaty of Versailles, by building a network of alliances with the countries of eastern and southeastern Europe, and by seeking to strengthen the League of Nations. Relations with Great Britain, though close, were frequently strained by diverging views on the German problem and the best way of organizing peace, as well as by rivalry in the Near East. As Germany grew aggressive under Hitler, France capped its alliance structure with the Franco-Soviet Treaty. But since it was weakened by internal divisions, France pursued a halting foreign policy, accepting or, as in re-

gard to Mussolini's Italy, encouraging the British appeasement policy.

Feeling ignored during World War II by the three Great Powers, which were carrying the burden of the fighting, France at De Gaulle's insistence sought to regain its place by building up its army, keeping its claims to the fore, and re-establishing the system of alliances. This time it began with the country with which ties had been established late in the inter-war period, and towards which there was nationwide gratitude for its part in the liberation of France: the Soviet Union. On December 10, 1944, De Gaulle signed with the Soviet Union a twenty-year defensive treaty which he hoped would put France in the position of mediator between East and West. But France, despite its alliance with the Soviet Union, was not represented at the decisive Yalta Conference, a little over a month later. Nor did it find that in the international conferences at which it was subsequently represented, or in its policies towards Germany, that the Soviet Union was prepared to lend it much support.

In the light of this disappointment, the French turned back once more to the notion of an alliance in the West. On March 4, 1947, a fifty-year alliance with Great Britain was signed at Dunkerque. This alliance was designed to guarantee joint action in case of German aggression and to assure consultation in case Germany's economic obligations were unfulfilled. Agreements with Czechoslovakia and Poland, and with Belgium and Holland, were also discussed. Yet increasingly French statesmen have recognized the difficulties of bridging the gulf between East and West, and have seen that the Soviet military position in central Europe offered a serious threat to France's own security.

Side by side with questions of political alignments in Europe have gone the problems of economic recovery. France originally blocked the economic co-ordination of the four zones into which Germany was divided at the end of the war and opposed the revival of the industrial capacity of the Ruhr. In the light of France's own economic distress, however, and its dependence on economic aid from the United States, French statesmen gradually modified their opposition to the economic recovery of Western Germany so long as this area was

considered an integral part of the program for Western Europe as a whole. Confronted with the *de facto* partition of Germany between the Soviet Union and the Western powers, and open Soviet opposition to the Marshall Plan, France (and in particular De Gaulle) accepted the necessity of close economic and political alignment with the West.

Yet in the tension between the Soviet Union and the Western powers, France occupies a peculiarly unhappy position. It is bound by tradition and by geography to the West; but many of France's people are bound ideologically to the Soviet Union. And while on occasions the overriding interests of France may unite both groups, as in their early postwar opposition to German unification, it is also possible that their division might become so acute as to disrupt France's own unity. The fear of war between the East and the West adds a particular tension because in such a conflict France itself would almost inevitably become a battleground.

The challenge to France in such a situation has been to pursue a truly European and international policy, to act as a consolidating and not a divisive force, and since 1950, this has been characteristic of French foreign policy. Where Great Britain has been reluctant to merge itself in Western Europe because of its ties with the Commonwealth and the United States, France has embarked on a bold program of economic and political unification in this area, in particular through the Schuman Plan, plans for a European army, and the Council of Europe. At the same time, France, like Great Britain, is participating actively in the United Nations and NATO, the North Atlantic Treaty Organization (see p. 223), which seeks to co-ordinate the Atlantic community for the purposes of common defense.

### **The Schuman Plan**

The Schuman Plan is the most far-sighted and daring effort in modern times to replace the traditional antagonism between France and Germany by a working relationship based on mutual interest. Dramatically announced by the French Foreign Minister, Robert Schuman, in May 1950, as a scheme for fusing French and German coal and steel production (the



basis of military and industrial strength) under a common High Authority not subject to the control of either Government, the Plan has been extended to include six countries—France, Germany, Belgium, Holland, Luxembourg, and Italy. On April 18, 1951, their Foreign Ministers signed a treaty which, when ratified by the respective governments, provides for the creation of a "European Coal and Steel Community." Though the Plan is primarily economic, the political implications of such co-ordinated activity are undeniable.

The basic purposes of the European Coal and Steel Community are to assure the efficient production of coal and steel at low cost, to organize the more than 160 million people in the six countries concerned into a single competitive market for these products, and to pass on the economic advantages of so large a market not only to industrialists and governments but also to the workers in the form of improved standards of living. Vague as was the Schuman Plan in its initial conception, it has been buttressed with a mass of intricate and convincing detail under the direction of Jean Monnet (see p. 356), its originator and chief architect. Its effect would be to place under supranational control the production of the two key resources of an area as important strategically as industrially: the rich coal-and-iron triangle of Western Europe which in an area only half the size of Alabama includes Lorraine, the Saar, the Ruhr, and the Rhineland.

The Treaty which established the working basis for the Schuman Plan outlines a supranational political structure as complex as it is novel. The executive body of the European Coal and Steel Community is the High Authority, consisting of nine members (two each from France and Germany, and one from each of the others, but all to be nominated unanimously by the six governments, and one chosen by these eight members), selected neither to represent particular countries or industries but "for their general competence," and serving six-year staggered terms. The High Authority's decisions are by majority vote. It appears to have unlimited powers to gather information, prevent the growth of private cartels, and prohibit and break up mergers which violate the non-discriminatory aims of the Treaty, and consid-

erable powers in other areas affecting production.

An elaborate structure of checks and balances to the power of the High Authority is provided, however, through four other organs: the Council of Ministers, the Assembly, the Court, and the Consultative Committee. The Council of Ministers is the link between the Governments and the High Authority, consists of one member from each Government, and must grant its approval for High Authority action in certain spheres defined by the Treaty, notably the development of industry and the regulation of foreign trade. The Assembly (in which France, Germany and Italy each have 18 members, Belgium and Holland each 10, and Luxembourg 4, to be elected either by popular vote or the national assembly) meets annually to consider the High Authority's general report and has the supreme power of being able to force the resignation of the High Authority by a two-thirds vote. The Court, composed of seven judges appointed by the governments acting jointly for six-year terms, is the final tribunal in all disputes between the Authority and governments or firms, and may order and restrain action by the High Authority insofar as this is justified by the Treaty. The Consultative Committee has 30 to 51 members appointed by the Council in such a way as to give producers, workers, and consumers equal representation. It is to give advice chiefly on production programs and "readaptation" of industry and labor to the new conditions of a larger market and more efficient organization of production.

When ratified, the Treaty is to run for fifty years. In its initial stages, the single market for coal and steel will be brought gradually into existence, the institutions established, and means of associating Great Britain with the Community explored. This has remained a serious issue ever since the British refused to join in the general discussions on the Plan because of the implication in France's invitation that the Plan must necessarily be associated with some federal organization of Western Europe. But while the British retain their opposition to participating in such a political structure for Western Europe as the French favor, there seems little doubt that they would work closely with what is essentially a functional organization for di-



recting the production of coal and steel. At the same time, it is important to see that the French approach to functionalism is through *supra-national* institutions while the British is through *international* agreements.

Regardless of the ultimate outcome of the Schuman Plan, the negotiations and planning which went into the formulation of the Treaty provide landmarks in the progress of Western European co-operation. They provide hopeful evidence that a community of interest exists in Western Europe which can be given concrete form through hard work and good will; equally they demonstrate that France can assume a position of leadership in Western Europe if its plans are sufficiently farsighted and to the general interest of that community.

### **A European Army?**

In another field, the defense of Western Europe, France has also put forward a constructive plan which has found response among its neighbors, the Plevin plan for a European Army. In part an attempt to control German rearmament, in part foreseen as an essential step towards a united Europe, the French plan for a European army would organize small national units into an integrated defense force to operate under another supranational organization with organs not unlike those envisaged for the European Coal and Steel Community. Here again, initial British, and indeed American, hesitation, did not prevent long and patient planning and negotiations which by July 1951 had resulted in an impressive measure of agreement between representatives of France, Germany, Italy, Belgium, and Luxembourg. By this time, SHAPE (Supreme Headquarters, Allied Powers, Europe) had also recognized that its objective of ten German divisions to support NATO might best be achieved within such a European framework and was lending its support to a general plan of this character.

### **The Council of Europe**

From the French point of view, such supranational functional organizations for coal and steel, and for defense, are not ends in themselves, however, as international functional organizations are for the British but merely pre-

liminary steps towards building a unified political structure for Western Europe. Though the Council of Europe, established by an agreement of May 5, 1949, has neither the functions nor the authority to provide such unity, the French have not given up hope that it might be transformed for such purposes.

The Council of Europe has two main organs—the Committee of Ministers and the Consultative Assembly—and a Secretariat. The Committee of Ministers is composed of one representative from each participating Government, usually the Foreign Minister, and can make decisions binding on these governments subject to parliamentary ratification. The Consultative Assembly is a more unusual body for its members are drawn from all sections of opinion in the parliaments of the member countries except the Communists. Its present role is not to make decisions (even the proposals which it sends with a two-thirds majority to the Council of Ministers can be ignored by that body) but to act as a sounding board for a wide range of opinion. Its members are not elected by or responsible to any specific groups. Its particular function then—and it could be a highly important one—is to create a sense of community in Western Europe, to “recreate its cultural and moral unity” as Barbara Ward has said.

That such organs could be transformed into those of a federal entity may well seem past the bounds of possibility. That Great Britain would remain a member of the Council of Europe under such circumstances is inconceivable. But that many Frenchmen, and among them some in high office, see such a transformation as the greatest hope for building a cohesive Western European community which could hold an independent position between the super-powers—the United States and the Soviet Union—seems equally true. Faced with their own internal dissensions, spurred by their belief in the unifying effect of the European culture which is their proudest possession, the best hope to many Frenchmen lies in giving that unity a political expression. Only in this way, they believe, can France fulfill the destiny it is too weak to carry out by itself, and Western Europe become a Third Power, vigorous and productive once more, and able to seek a satisfactory *modus vivendi* with the Soviet Union and eastern Europe.

# Conclusion

It may seem paradoxical that France is devoting so much effort to building a Western European community when it has not yet achieved a firm sense of community among its own citizens. For every problem within France ultimately comes back to this lack of a pervading civic sense among its people. It is hardly too much to say, in fact, that the future of French democracy is largely dependent upon building such a civic sense, for a democratic system depends upon a basic feeling of unity among the people who must work it, and upon their willingness to extend mutual respect and aid.

The most obvious evidence that France is deeply divided not only over policies but even on the basic principles of parliamentary democracy is the existence of political parties on both the Left and the Right which are hostile to the ordinary give and take of party government. The Communists on the extreme Left are avowedly antidemocratic; the fact that they continue to command the votes of a quarter of the French electorate evidences a profound dissatisfaction among the peasants and urban workers with the results of French parliamentary rule. The R.P.F. on the Right, and its leader De Gaulle, have a disturbing lack of understanding of the essential role of parties in the operation of political democracy. Though it seems unlikely that either the extreme Left or Right can dominate France, they command between them a dangerously high proportion of the electorate. Thus those parties which are committed to parliamentary government—the Socialists, the M.R.P., the R.G.R., and the Conservatives—must operate under a double handicap: first, that between them they possess the electoral support of little more than half of the voters, and further that they are constantly under pressure within the chambers from both extremes. The necessity of maintaining sufficient unity to resist such pressures absorbs constructive energies from these parties which

might otherwise contribute to devising much-needed reforms, and at the same time lessens the appeal which the center parties can make to the independent voter.

The obvious difficulties under which French parliamentary government is laboring have led many to lay the blame on the Constitution of the Fourth Republic. The dominant position of the National Assembly, while not sufficiently unfettered for the Communists and Socialists, is looked on as the root of much evil by all the parties further to the Right. In fact, there is a movement to restore what may be termed the classical form of parliamentary democracy operated by two co-ordinate chambers, though constitutional revision will be necessary to make the Council of the Republic more than a pale shadow of the former Senate. But though safeguards against taking decisive action too hastily are particularly important in the kind of situation within which France finds itself, it is doubtful whether any amount of tinkering with political machinery can of itself lessen the basic political cleavage which presents the fundamental danger to French democracy. Even the best political machinery will not work without the willingness to make it work.

More and more, in fact, the Fourth Republic exhibits the weaknesses which marred the Third Republic, not because of any return to the older institutions but because of similarities in the milieu in which they must work. Despite the new constitutional provisions, cabinets have not achieved the measure of independence *vis-à-vis* the National Assembly which makes British cabinet government so effective and which the framers of the Fourth Republic hoped for. The investiture procedure for the Premier (see p. 316) may reduce the number of "stillborn cabinets" but it is not so different from the traditional vote of confidence. The right of dissolution may well become as much of a dead letter as in the earlier regime. Moreover, as the bal-

ance of political strength in the chamber moves to the Right the small undisciplined, heterogeneous groups of the R.G.R. and the Conservatives play a disproportionate role in the making of policy. All too often the result of the compromises necessary to keep a cabinet in office is inaction, if not paralysis.

Yet unless France tackles squarely its economic and social problem, there can be little hope of building the cohesive community sense which is the essential basis for a strong and vigorous country. In the first place, France's very considerable economic recovery is now threatened by rearmament. But behind this problem of France's economic position in the international community lies the no less urgent one of the distribution of wealth within France itself. As compared with the business community in Great Britain and the United States, French financial and commercial figures hold out-dated ideas both on labor and production. They are more than reluctant to share with their workers the very considerable profits which they have made since World War II; collective bargaining in France is barely in its infancy. The average French industrialist is not yet thinking in terms of the advantages for his own production of a satisfied labor force, or of the potential purchasing power of the workers if their standard of living were raised even to that of other Western European industrial countries.

The position of the French urban workers and peasants is not only an economic and social problem of great urgency but a political problem as well. For there is little or no hope of undercutting the influence of the Communist party over them unless their economic conditions are radically improved. This would involve not only improved wage scales but also the provision of such necessities as good housing at a cost within their means. Such steps seem essential for building a vital non-Communist trade union movement which can command the loyalty and support of the mass of French workers, and make them, as in Great Britain, a bulwark of the parliamentary system rather than a potential danger to it.

At the same time, France badly needs a modern tax system which will ensure a greater equality of contributions to the services which the state provides. This need is closely related to the improvement of the standards of living of the workers and peasants for such a development may well require extended governmental contributions for social welfare, and must be coupled with a greater effort to equalize sacrifices throughout the country if it is to have the desired effect of integrating the lower income groups into the French community.

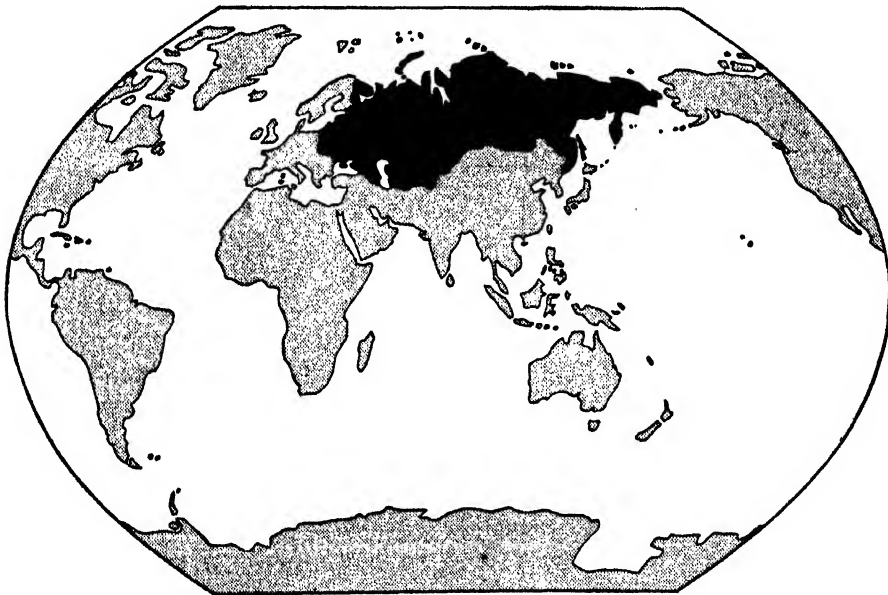
Difficult as these problems are, France has great national assets which can be mobilized to meet them. Its greatest political asset is the possession of a highly intelligent population with long experience in self-government. Moreover, Frenchmen have proved both in the national and international spheres that they are capable of farsighted planning and action. The way in which the Monnet Plan for economic recovery (see p. 356) was conceived and carried out showed exceptional capacity for democratic action in a field not highly conducive to such efforts. The Schuman Plan was also a bold and, as far as planning was concerned, successful example of democratic techniques. The prevailing apathy of the French, compounded in part of the feeling of helplessness in the face of American-Soviet antagonism, and of disgust with party maneuvering, might be transformed into active participation by a large scale constructive and practical program of equal caliber which is clearly directed to the general good. In this sense, the efforts of French statesmen to merge French problems in a larger community have some justification. But in the end, regardless of international developments, France will have to wrestle with its own problems on its own ground. And while the problems may seem primarily economic, they are basically problems of morale and politics; for the primary challenge to France today is to make parliamentary government effective in meeting the needs of its people.



## PART THREE

# THE GOVERNMENT OF THE SOVIET UNION

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## CHAPTER 1

# Soviet People and Politics

### I. THE SIGNIFICANCE OF THE SOVIET EXPERIMENT

The study of Soviet government raises one of the most controversial issues of modern politics whether or not it is possible to achieve freedom and equality through the use of means which deny these principles. In the Western democracies<sup>1</sup> it is commonly believed that the only way to build democracy is to practice democracy, and even the socialist parties (who share with the Communists the aim of socializing productive property) reject violence and dictatorship as instruments of economic and social reform. If occasionally they indulge in revolutionary talk, they accept in practice the possibility and desirability of gradual and democratic change. They believe that the great majority of men and women will vote for socialist parties once they understand their aims, and that it is their job to persuade voters, to win elections, to build a parliamentary majority, and to pass, one by one, the laws which will create a socialist state.

The method of persuasion and voluntary consent is a slow one, however, and to those who are eager for the immediate end of poverty and degradation it often seems that the end is sacrificed by insistence upon means which are halting and ineffective. The answer of the Communist leaders, therefore, has been to sacrifice the means of democracy to what they consider a democratic end. political authority has been placed in the hands of a small minority of the population, which does not hesitate to use this authority coercively whenever the process of

persuasion is too slow and too difficult. The entire history of the Soviet government in a sense is a test of the assumption that such means can build a good society based on material prosperity.

#### *Soviet Totalitarianism*

In pursuing their purposes, Communist leaders have believed it necessary to dominate every aspect of the life of the people they govern. To-day in the Western democracies the state has many more social and economic responsibilities than in the past; yet there remain wide areas wherein the life of the individual is not touched directly by state action. In the Soviet Union, in contrast, the state frankly controls every sphere of life, cultural and religious as well as economic and social, with the result that there the impact of political decisions is far more widely spread and goes far deeper into the life of each citizen than is true in the West.

#### *The Soviet Concept of Infallibility and Authority*

There is another basic difference between the Western democratic tradition and the ideas which prevail in the U.S.S.R. In the Western democracies it is generally believed that no man is infallible, no political prophet has exclusive possession of ultimate truth. On the contrary, truth is expected to emerge from the clash of diverse ideas, and it is considered a mark of the health of democracy to have many independent thinkers studying, questioning, and developing their own political ideas. It is not unusual for American politicians to cite Jefferson or Lincoln in support of their views; but no one would pre-

<sup>1</sup> In these chapters, the words 'the West' will be used to refer to the democratic countries of Western Europe and to those countries like the United States, Canada, and Australia which share their culture and their political traditions.



sume to say that only those are democrats who accept unquestioningly the political philosophy of Jefferson (or Lincoln) as interpreted, let us say, by Franklin D. Roosevelt (or Robert Taft).

In the Soviet Union, however, there is only one political creed: the ideas of Karl Marx as developed and interpreted by Lenin and, later, by Stalin. "Marxism-Leninism-Stalinism," as it is officially known, is a doctrine from which there can be no dissent. It may be modified from time to time in accordance with new conditions; but the changes must be made, not by just anyone at all, but only by the official spokesmen for the Communist Party. If one is to understand the purposes and policies of the Soviet government, therefore, it is essential first of all to have some knowledge of this doctrine.

### *The Ideas of Karl Marx*

Any brief description of a doctrine as comprehensive and complex as that of Karl Marx (1818-1883)<sup>2</sup> inevitably suffers from oversimplification and incompleteness. It is possible, however, to sketch out several leading ideas.

#### HISTORICAL MATERIALISM

The first of these is the theory of historical materialism. According to Marx's own description in the Introduction to the *Critique of Political Economy* (1859), "the mode of production of the material life determines the general character of the social, political, and spiritual processes of life. It is not the consciousness of men which determines their existence, but, on the contrary, their social existence determines their consciousness."

In simpler terms, this statement means that the most important determinant of the character of any society is the economic: the way in which men produce and distribute wealth. Its assumption is that the actions of individuals and groups can generally be accounted for by

their material interests; and, more than this, that political and religious ideas, concepts of justice and morality, forms of government, the customs of society, even art and philosophy, are largely determined by the forces of production and by property relationships. Only by understanding the economic conditions essential to production can one understand the law, politics, art, religion, or philosophy of a society.

There have been epochs of human history to which the application of this theory is not particularly satisfactory; but in the nineteenth century it seemed to explain an obvious phenomenon. At that time the Industrial Revolution was transforming the way of life of all of Western Europe, and it would be hard to name any aspect of human existence or thought which was not affected by the change. The rise of an industrial middle class went hand in hand with the extension of the suffrage and the expansion of political democracy. The growth of the cities, the tremendous increase in productive power, and the change from work on the farm to work in factories meant that vast masses of people were leading a life utterly different from that of their parents and grandparents. With the increase in education needed for an industrialized society, the reading public grew and culture became "popularized," while the machine provided both new means of artistic creation and new ideas of the beautiful and efficient. Even religious attitudes underwent fundamental changes as the machine gave man greater control over his world and turned his mind from the supernatural.

The doctrine of historical materialism assumes not only that the "economic conditions essential to production" are the most important influence in determining the nature of society but that these conditions can be known "with the exactitude of natural science." As new forms of production appear in response to man's efforts to satisfy his needs, they conflict with existing property relationships; the result is a social revolution which transforms the institutions of society. According to Marxist teaching, the transformation takes place in conformity with definite scientific principles, and the adept of the science can predict with

<sup>2</sup> Although Marx, a brilliant scholar, was born in Germany, most of his adult life was spent abroad, first in Belgium and France and eventually, for the last thirty years, in England, where the consequences of the Industrial Revolution were more apparent than in any other country. The *Communist Manifesto*, which he and Friedrich Engels published in 1848, became the platform of the international socialist movement, of which Marx himself, during the last two decades of his life (while he was writing his monumental book, *Capital*), was the leader.

precision what these changes will be. Friedrich Engels, Marx's great friend and co-worker, expressed the belief of the orthodox Marxist when he declared: "Just as Darwin has discovered the law of evolution in organic nature, so Marx has discovered the evolutionary laws of human history."

The logical consequence of this doctrine, obviously, was the belief that no significant change could be made in the social or political order which was not based first of all upon a change in the economic structure of society and, specifically, upon a change in its property relations. Such economic changes, however, were not the result of conscious endeavor: they were the inevitable outgrowth of the conflict between new productive forces (like those of the Industrial Revolution) and an earlier system of production-relations.

#### SURPLUS VALUE

Marx's theory of surplus value was really an attempt to explain the existence of great differences in income and, in particular, the fact that those who work hardest often receive the smallest incomes and that others, who work not at all, receive very large ones. Marx's explanation depended upon several theories which were popular among economists in the early nineteenth century. One of these, the labor theory of value, taught that the value of any commodity depends upon the amount of labor required to produce it. Those things which are difficult to procure or manufacture are expensive; those things which can be acquired without work are cheap or valueless. But although value is determined by the amount of labor, those who labor do not necessarily receive payment equal to the value of their labor. On the contrary, the capitalists and the landlords (the *bourgeoisie*) who employ workers in their factories and on their farms pay them wages far lower than the value of their work and keep the "surplus value" for themselves. According to an *iron law of wages*, propertyless workers (the *proletariat*) are paid only the minimum amount of money needed to keep body and soul together. As Marx stated the doctrine, "The average price of wage labor is the minimum wage, i.e., that quantum of the means of subsistence which is absolutely requi-

site to keep the laborer in bare existence as a laborer."

The landlords and capitalists are in a position to impose such conditions upon the workers because they own the instruments of production. The propertyless workers have neither farms nor factories of their own, and unless they are given employment they must starve. Yet there are more workers than there are jobs available (technological advances and the dispossession of many farmers by large landowners in England, where Marx did most of his writing, had created a large "reserve army" of unemployed who were competing with one another for jobs). Thus the man who wins a job, under such circumstances, is the man who underbids his competitors—that is, who is willing to work at the lowest wage needed to sustain life. As a result, the bourgeoisie accumulate more and more wealth (the *concentration of wealth*), while the proletariat become increasingly wretched (the *growing misery of the masses*).

Such developments, Marx taught, lead inevitably to a series of ever more disastrous economic crises. Since the workers, with their miserable wages, cannot buy the products which they themselves produce, there are "epidemics of overproduction." The owners of the means of production must then acquire, through the use of economic or military force (*imperialism*), foreign markets in which to sell their goods. In addition, the less efficient or powerful employers are driven out of business by their competitors and themselves sink down into the proletariat. In a sense, capitalism destroys itself, for fewer and fewer people own private property and more and more people become as destitute of private property as though they already lived in a socialist society. Moreover, in Marx's words, "the proletariat not only increases in number; it becomes concentrated in greater masses, its strength grows and it feels that strength more." Ultimately the proletariat use this strength to overthrow the bourgeoisie, to "expropriate the expropriators," and to destroy the existing social system, for the injustices of surplus value can be destroyed only by eliminating private property in the instruments of production.

## CLASS WAR

All history, according to Marx, is the history of warfare between classes, and it is the class struggle which is the bearer of change. Although in earlier times there were many different classes, in modern times the pattern has become simpler. In advanced countries, the slave and the serf have disappeared, and the nobility and the small property owner have vanished or lost their power. Increasingly there are only two classes of any significance, the bourgeoisie and the proletariat; warfare between them is inevitable, and the triumph of the proletariat is certain. It is the task of the Communists, who are "the most advanced and resolute section of the working-class parties in every country" and who "have over the proletariat the advantage of clearly understanding the line of march"—that is, the inevitable workings of the process of historical materialism—to educate, guide, and lead the proletariat and to prepare it for the violent seizure of political power. The state, according to Marx, is "merely the organized power of one class for oppressing another," and the proletariat must seize control of the state in order to destroy the opposing class. "The Communists disdain," Marx wrote in the closing lines of the *Communist Manifesto*, "to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communist revolution. The proletarians have nothing to lose but their chains. They have a world to win."

## THE WITHERING AWAY OF THE STATE

Marx was less explicit about what would follow the triumph of the revolution. At first, the Communist society would bear "in every respect, economic, moral and intellectual," the marks of the capitalist society from whose womb it had issued. Each individual producer would be paid in proportion to the amount of work he did. Only in a higher phase of Communist society "after labor has become not only a means of life but also the primary necessity of life," when the forces of production had increased and there was universal abundance, would the final Communist ideal be

achieved: "From each according to his abilities, to each according to his needs." During the early postrevolutionary period, the *dictatorship of the proletariat*, the power of the state, would be used to destroy the bourgeoisie. The state, however, is useful only as an instrument for controlling other classes, and once the bourgeoisie had been destroyed there would be a classless society and the state would lose its reason for existence. As the task of liquidating the bourgeoisie proceeded, the "government over persons" would be progressively replaced by the "administration of things," and the state as an instrument of coercion would "wither away." In the new society all would share in the products of the toil of all, and there would be plenty and prosperity for everyone.

*The Ideas of Lenin*

In the late nineteenth and early twentieth century, some of Marx's followers began to suggest modifications in his doctrine. Certain of his predictions had not come true: the disastrous economic crisis which he had foretold did not occur; the middle class, far from disappearing into the proletariat, became increasingly strong; and the workers, by using their new power to vote (the suffrage had been severely restricted when Marx first wrote) and their power to organize in unions and co-operatives had greatly improved their bargaining position and their material prosperity. In many countries of Western Europe members of other classes had helped in the enactment of social legislation: protection of women and children in industry, compensation for accidents, protection against dangerous machinery and unhealthful working conditions, limitations on minimum wages and maximum hours of work, and insurance against illness, unemployment, and old age. Marx himself had suggested that in advanced democratic countries like England, the United States, and Holland, the transition to a socialist society might come peacefully; and many leaders of socialist parties, while continuing to talk of violent revolution, were more deeply interested in winning higher wages and better working conditions. Increasingly, their real aim was to win a ma-

jority of the seats in Parliament and to introduce socialism through peaceful legislation rather than to prepare for revolution,<sup>8</sup> and it was against this moderate or evolutionary tendency in socialist thought that Lenin revolted.

Lenin was born in Russia in 1870 and belonged, somewhat paradoxically, to a family of middle-class intellectuals. His father was a civil servant, an inspector of primary schools, while his mother belonged to the lesser gentry. His older brother, who Lenin adored, took part in a plot to assassinate the Tsar and was himself executed in 1887. From this experience Lenin could draw the practical lesson that a revolutionary movement, to be successful, must be based not on individual acts of terrorism but on the combined and disciplined efforts of an elite which should dominate and direct the masses. He became active in the Marxist movement in Russia, suffering both imprisonment and exile to Siberia; but from 1900 to 1917 he spent most of his life abroad, devoting himself to the building of a revolutionary movement.

#### THE PARTY: THE INSTRUMENT OF REVOLUTION

The restoration of violent revolution to a central place in Marxism is at the heart of Lenin's work. He bitterly attacked those Marxists and Socialists who were not revolutionary. The

<sup>8</sup> The use of the words socialism and communism is subject to some terminological confusion. At the time that Marx and Engels published the *Communist Manifesto* (1848), there were many different forms and prophets of "socialism," and the word "communist" was used to distinguish Marxist socialists from others. Later in the nineteenth century Marxism came to be the predominant form of socialist thought and, generally speaking, to be a socialist was to be a Marxist. The word communist returned to general use with the revolution in Russia. Up to this time the more radical wing of Russian Socialists had used the name Bolsheviks (derived from the Russian word for majority) in contrast to the more moderate Mensheviks (minority). Lenin, however, was eager to have a name more expressive of the doctrinal content of Bolshevik beliefs, and in 1918 the Party officially adopted the name "Communist." Lenin insisted that those parties, in any country throughout the world, which affiliated with the Russian Communists in the Third International must also adopt the name "Communist."

In the Soviet Union the words are also used to mark the distinction between the first stage of Communism (which is called Socialism) and the second and higher stage (which is called Communism).

Thus the words are used in a double sense: to mark a distinction between political parties, and to mark a distinction between different stages in the development of a Communist society.

Socialist periodical *Iskra* (the Spark), which was published by Russians in exile, beginning in 1900, and of which Lenin was an editor, provided a vehicle for his ideas. More important, he insisted that the impetus for revolution must come, not from a mass organization which inevitably would include the lukewarm and which would waste its time debating, voting, and compromising, but from a small organization of professional revolutionaries, characterized by absolute obedience and relentless determination. Ties of friendship, and principles like liberty, individual rights, or democracy, must be sacrificed, he argued, if the success of revolutionary action were involved.

Moreover Lenin foresaw that the masses would not instinctively follow the lead of the Bolsheviks. On the contrary, he declared that "The history of all countries shows that the working class, exclusively by its own efforts, is able to develop only trade union consciousness." Thus "our task . . . is . . . to *divert* the labor movement from its spontaneous, trade unionist striving to go under the wing of the bourgeoisie, and to bring it under the wing of revolutionary Social-Democracy." Only active, positive leadership dedicated to showing the masses their "real" interests could achieve this.

For a time Lenin agreed with orthodox Marxists that the revolution would come first in those countries which were already highly industrialized, where the majority of the people belonged to a class-conscious working class, and where a bourgeois revolution (corresponding to the French Revolution) had already taken place. Marx had declared on the concluding page of the *Communist Manifesto* that "The Communists turn their attention to Germany" where the proletariat was more advanced and where he expected a bourgeois revolution would be "but the prelude to an immediately following proletarian revolution."

Most Russian Socialists assumed that in Russia, too, there must first be a bourgeois revolution which would give political power to the Russian middle classes, and that only after a long period of industrialization would it be possible for the proletarian revolution to occur. As early as 1905, however, Lenin had prophesied that "the revolutionary-democratic

dictatorship of the proletariat and the peasantry" might succeed briefly in Russia, though he then believed that "the *European-Socialist proletariat*" would have to come to its support if socialism were to be achieved.

#### IMPERIALISM

Following his bitter disappointment when European socialists supported their national leaders at the outbreak of World War I instead of uniting in a proletarian revolution, Lenin re-examined the state of world politics in his *Imperialism, the Highest Stage of Capitalism*. In this book, Lenin argued that the concentration of production and capital had brought industrialized countries into the stage of monopoly capitalism. This stage was characterized not only by larger and larger monopolistic units within these countries, and by the increasing control of the banks, but also by export of capital and development of colonial empires for exploitation of raw materials and outlets for goods. This development had led to rivalries, he declared, out of which wars, like the existing one, were bound to grow. At the same time, this "internationalizing" of capitalism made it vulnerable to attack anywhere, and Russia was "its weakest link." The proletariat, urged Lenin, should do its best to "turn the imperialist war into a civil war." In 1917, events in Russia seemed like a response to his challenge.

#### "THE STATE AND REVOLUTION"

During the summer of that year, while the Bolsheviks were preparing for the seizure of power which actually took place in November (or, according to the old Russian calendar, October), Lenin found time also to develop his ideas on the nature of the revolution of the society which would succeed it, in an unfinished book, *The State and Revolution*. Here he challenged those moderate and reformist Socialists who, like the members of the British Labor Party, believed that democratic states could introduce socialism peacefully and gradually. Progress, he wrote, "does not march along a simple, smooth, and direct path to 'greater and greater democracy.' . . . No, progressive development—that is, towards Communism—marches through the dictatorship of the proletariat. . . ." Parliaments

provided no real path to power. "The actual work of the State is done behind the scenes and is carried out by the departments, the chancelleries and the staffs. Parliament itself is given up to talk for the special purpose of fooling the 'common people'." Only by seizing control of the instruments of state power—the bureaucracy (the civil service), the army, and the police force—could a revolution triumph.

Lenin believed, however, that these instruments would not be surrendered peacefully. The proletariat would have to use force to capture them, and once they had been captured they would have to be used by the proletariat itself to destroy the former ruling classes. The "state" would still exist as an instrument of oppression, but now the proletariat would use it to suppress the capitalist class. The dictatorship of the proletariat, Lenin wrote, "will produce a series of restrictions of liberty in the case of oppressors, exploiters, and capitalists. We must crush them in order to free humanity from wage-slavery: and resistance must be broken by force. It is clear that where there is suppression there must also be violence, and there cannot be liberty or democracy." "The proletariat needs the State, the centralized organization of force and violence, both for the purpose of crushing the resistance of the exploiters and for the purpose of guiding the great mass of the population—the peasantry, the lower middle class, the semi-proletariat—in the work of economic Socialist reconstruction." As these purposes are achieved, however, the state becomes less and less necessary and can progressively wither away.

#### COMMUNISM: THE FIRST STAGE

Lenin distinguished between two stages in the withering away of the state. During the first period, known as *Socialism*, there are still certain resemblances to bourgeois society. The state as an apparatus of suppression continues to exist, but with the important qualification that "the organ of suppression is now the majority of the population, and not a minority, as was always the case under slavery, serfdom and wage-labor." It is no longer necessary to depend upon armies and the police for the job of suppressing since "the majority of the nation *itself* suppresses its oppressors," and "in this

sense the State begins to disappear." "The specific 'bossing' methods of the State," Lenin wrote, "can and must begin to be replaced—immediately, within twenty-four hours—by the simple functions of managers and clerks—functions which are now already quite within the capacity of the average townsman and can well be performed for a working man's wage." Similarly, the old armed forces and the police will be supplanted by the armed masses of the working class, "a universal participation of the people in a militia."

During this first stage all of the instruments of production will be socialized, and the whole of society will become one great office and one great workshop. However, there will still be certain inequalities in income. Each man will be paid in accordance with the amount of work he does, and certificates will be issued showing the amount of remuneration to which he is entitled. "The first phase of Communism," Lenin wrote, "still cannot produce justice and equality; differences, and unjust differences, in wealth will still exist, but the *exploitation* of one man by many will have become impossible, because it will be impossible to seize as private property the *means of production*, the factories, machines, land, and so on." It will even be necessary to retain a certain amount of bourgeois law, and there will continue to be "the *strictest* control, *by society and by the state*, of the quantity of labor and the quantity of consumption. . . ." But this control will be carried out, not by a government of bureaucrats, but by a "government of the armed workers."

Control over consumption is particularly important because much of what is produced would have to be used, not for the immediate gratification of human wants, but for the expansion of the industrial plant. For this reason a reserve fund would have to be deducted from the quantity otherwise available for consumption.

At the same time, officials lose the glamour and prestige which traditionally is theirs, and their functions increasingly are taken over by ordinary citizens, for Lenin, somewhat naïvely, believed that "the great majority of functions of 'the old State' have become enormously simplified and reduced, in practice, to very simple operations such as registration, filing and check-

ing. Hence, they will be quite within the reach of every literate person." The outstanding sign that the state is disappearing is the "abolition of all representative allowances, and of all special salaries in the case of officials; and the lowering of the payment of *all* servants of the State to the level of *workmen's wages*."

#### COMMUNISM: THE SECOND STAGE

The second stage in the withering away of the state is a far freer one. It begins when Socialism has been achieved, that is, when the hostile classes have been completely destroyed, and when productive property has been completely socialized. As this stage advances it will be accompanied by a prosperity so great that it will no longer be necessary to calculate consumption carefully and to reward each person in proportion to his work. Instead there will be more than enough to reward everyone, not in accordance with his work (as under Socialism) but in accordance with his needs.

In Lenin's words, "The narrow horizon of bourgeois law,' which compels one to calculate, with the pitilessness of a Shylock, whether one has not worked half an hour more than another, whether one is not getting less pay than another—this narrow horizon will then be left behind." Even the police force will no longer be necessary; for most crimes are the product of want, and once economic misery has been eliminated, the chief motive for crime will vanish with it. Individual persons may commit excesses, but the "armed nation" will handle such instances spontaneously, just as men separate fighters or protect women from insult without calling the police. "When people have become so accustomed to observing the fundamental rules of social life and when their labor is so productive that they will voluntarily work *according to their ability*," the state can wither away completely. Thus, where Marx was never very precise about the nature of the society which would be established by the revolution, Lenin set up a series of fairly specific standards and objectives by which the course and progress of the revolution might be judged.

Although the proletarian revolution took place almost exactly according to Lenin's specifications, he had little opportunity in his own lifetime to realize his ideal of the Communist

society nor in fact did he ever promise that it could be achieved. The first years of Communist power were marked by warfare (both foreign and civil) and by the greatest destruction. But as our further account will bring out, Lenin showed striking ability in handling urgent practical problems, such as the role of the peasants in the new state, the role of the Soviets, and the nationality problem, thereby proving himself even more significant as a revolutionary strategist than as a theorist. Even the New Economic Policy (p. 456) which he was forced to proclaim, and which seemed to mark a general retreat from the Communist goal, proved an essential stage in dealing with Russia's industrial backwardness. Thus before Lenin died in 1924, he had laid practical as well as theoretical foundations for the Communist state in many spheres.

### *Lenin's Successor*

After the death of Lenin there was a struggle among his disciples for the honor of succeeding him as the living prophet of Communism. Within a comparatively short time, however, it became clear that victory would rest ultimately with Joseph Stalin, the Secretary-General of the Communist Party of the Soviet Union and a man who (although he had written on the problem of nationalities) was not so much a political theorist as an administrator and a man of action. His task, unlike Lenin's, was not to sketch out the nature of a future revolution and lay the foundations of a new regime, but to determine the practical policies to be followed in a country where Communists already held power.

The two theories most closely associated with Stalin grew out of the Soviet Union's position before World War II as the only Communist state in a capitalist world. Lenin himself had expected the revolution to be world-wide and had assumed that the socialist society would be achieved on an international scale. When it became apparent, however, that other countries were not going to imitate Russia, Stalin preached the doctrine that it would nonetheless be possible to achieve "socialism in one country." Through the Five-Year Plans the productivity essential for moving towards Com-

munist was rapidly expanded. Yet Stalin also taught that so long as the Soviet Union was surrounded by capitalist states, the "state" (in the sense of an army and police force) would not wither away; on the contrary, he insisted it would have to be strengthened before it could wither away.

In the Soviet Union itself and in orthodox Communist parties outside, official Marxist doctrine is now known, as we have observed, as Marxism-Leninism-Stalinism, and developments since Lenin's death are said to be in pursuit of the same goals which he enunciated. There are other Marxists, however, who declare that Stalin has perverted the aims of socialism to the purposes of his own power. Which of these views is more soundly based must be considered in relation to actual conditions, for Stalin's political theory is not so much written in books as in the whole development of Soviet politics since 1927. If one wishes to compare his ideas with those of Marx and Lenin, it is necessary to turn to a study of the society which has developed under his leadership.

## II. THE LAND AND THE PEOPLE

### *The Land*

The country in which the most crucial of Communist experiments is taking place is the largest in the world. Its population of 201,500,000 is spread over an area of eight and one-half million square miles (the area of the United States is a little more than three million square miles)—one-sixth of the earth's land surface. From the Carpathian Mountains and the Baltic Sea on the western boundary to the Pacific Ocean on the eastern, the distance is as great as that from San Francisco to London; while the range of climate includes both Arctic ice and the deserts of Central Asia.

The natural resources of the Soviet Union are extremely rich and diversified. Official publications (which, in certain instances, represent rather optimistic estimates) claim for the Soviet Union first place in resources of iron ore, oil, manganese, water power, and timber, and second place in coal, lead, nickel, and zinc. Thus, in contrast to Great Britain, the Soviet Union's



great problem is not to obtain raw materials but to develop the resources it already has. As did the United States in the nineteenth century, the Soviet Union now is undergoing a tremendous process of industrial expansion, and its greatest need is for the equipment and the human skills which will speed this growth.

Although it is common to speak of European and Asiatic Russia, the country is, in fact, a geographic unit. The Ural Mountains, which are often called the boundary between the two continents, are no more of a division than are the Appalachians in America. A central theme of Russian, as of American, history is the story of the movement of population to the frontier (in the case of Russia, to the north and east) and the progressive, if somewhat sporadic, expansion of the Russian power over lands sparsely populated by backward peoples. To the west, however, Russia has bordered upon nations both populous and highly civilized; and on this frontier, where there is a lack of natural boundaries and natural defenses, there has been in recent centuries constant fear that invaders would follow in the path of Charles XII of Sweden, of Napoleon, and of Hitler. Where the United States has been protected by the Atlantic and Pacific, Great Britain by the Channel, and France (except for the northeast frontier) by mountains and the sea, the western boundaries of the Soviet Union are a great plain, without any physical obstacle to stand as a bulwark against the rest of Europe. The result is a feeling of insecurity and suspicion which can only be compared to the French preoccupation with the securing of the northeastern boundary.

If the Soviet Union is physically a unit, its tremendous size creates a serious problem in communications. The rivers of European Russia are an important means of transportation, but the link between European Russia and the Pacific must depend largely upon man-made facilities. In contrast to Great Britain, the Soviet Union must develop land communications if it is to make the fullest use of the resources of its great empire. The sea is of little assistance. Although the country has one of the longest coastlines in the world (two-thirds of its boundaries are formed by the sea), many of the ports are icebound most or all of the year. Moreover, in the case of the Baltic and the Black Sea ports

other powers dominate the outlets to the great oceans of the world. One of the persistent elements in Russian history since the fifteenth century has been the effort to find free access to the sea; and it is characteristic that Russia, under the Bolsheviks as under the Tsars, is constantly striving for control of the Baltic Sea and of the Straits which lead from the Black Sea.

#### GEOGRAPHY AND HISTORY

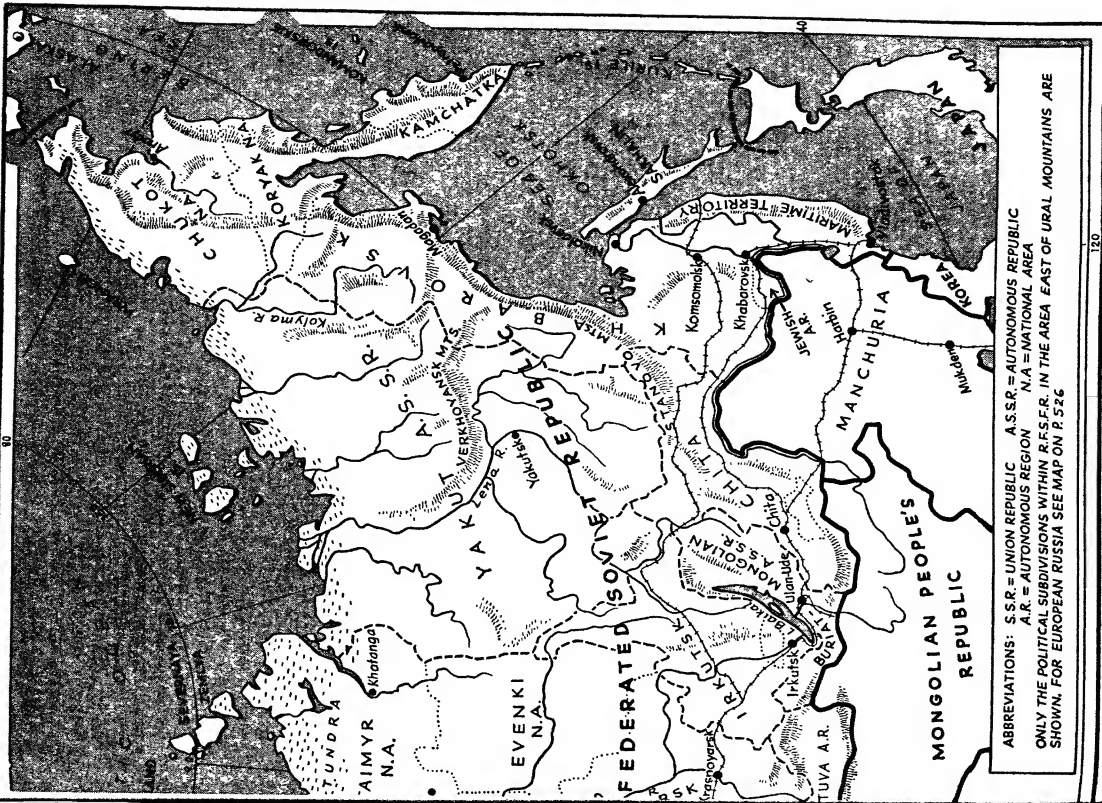
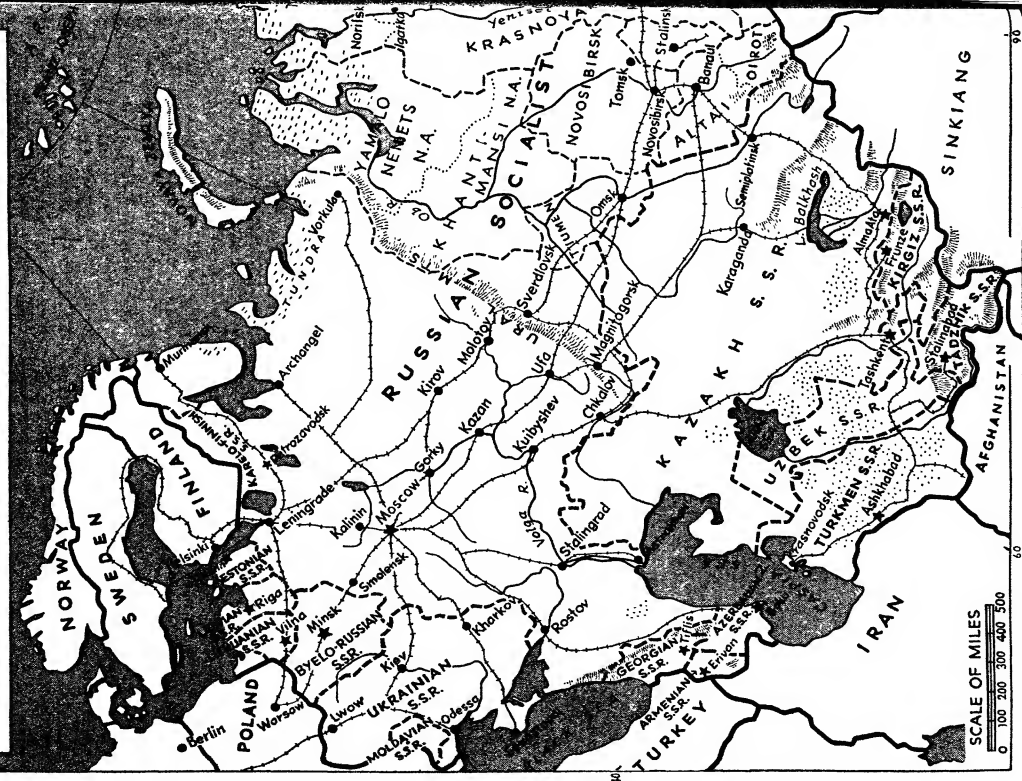
Although there are no outstanding physical barriers in the Soviet Union, there are fairly clear divisions into four great regions stretching from west to east: the frozen tundra of the North, the forest area immediately to the south (ranging from coniferous forests in the northern parts to a zone of mixed forests in the southern); the great steppe (or plain); and finally the semi-desert and desert regions of the South.

European Russia, it should be noted, is a land of great waterways. It was on the famous "water road" of the Dnieper, the Neva, and the Dvina, which stretched from the Black Sea to the Baltic, that the first important Russian towns like Kiev, Smolensk, and Novgorod grew up in the ninth and tenth centuries. It was not these towns, however, which formed the core of modern Russia. The steppes provided a peerless highway for a succession of invasions by nomadic peoples from the east like the Huns, the Bulgars, and the Magyars. Following this road the Tartar hordes conquered and subjected the princedoms of Russia.

In the generations which followed, eastern Russia (including Moscow) remained under the domination of the Tartars, while western Russia (including much of the old water road) came under the control of Poland and Lithuania. Not until the eighteenth century were these regions completely reunited with the rest of Russia, and during the period which intervened the people of the western regions (particularly the Ukraine and Byelorussia) took on characteristics of their own which distinguish them from the so-called Great Russians of Russia proper.

When a new Russian realm arose, then, it was not on the western river road nor on the open southern steppe but in the region of mixed forests around Moscow. Even under the Tartar

# THE UNION OF SOVIET SOCIALIST REPUBLICS



ABBREVIATIONS: S.S.R. = UNION REPUBLIC A.S.S.R. = AUTONOMOUS REPUBLIC  
 A.R. = AUTONOMOUS REGION N.A. = NATIONAL AREA  
 ONLY THE POLITICAL SUBDIVISIONS WITHIN R.F.S.S.R. IN THE AREA EAST OF URAL MOUNTAINS ARE  
 SHOWN. FOR EUROPEAN RUSSIA SEE MAP ON P. 526

yoke, in the fourteenth century, the Grand Princes of Moscow had begun to expand their power. Ivan III (1482-1505), who assumed the Byzantine title of "Autocrat," pushed his territory to the Arctic Ocean in the North and in 1480 threw off Tartar control. Ivan IV, "the Terrible" (1533-1584), expanded his territory in both the East and the West, conquering the Tartars of Kazan and, with less success, fighting the Teutonic Knights in the Baltic provinces. In 1547 he had himself proclaimed Tsar (or Caesar, another Byzantine title); at his death, his empire extended as far south and east as the Caspian Sea.

In the years which followed, Muscovy (Moscow) was engaged in almost constant warfare with the nations about it—a warfare which built a sense of national solidarity but which also required the development of a national army and a concentration in the hands of the Tsar of authority which became a powerful force in the building of Russian absolutism. Indeed, the long history of foreign wars and invasions did much to convince the Russian people that only the strictest unity under a single leader could save the country.

Until the middle of the seventeenth century the chief expansion of Russian territory was to the east and south, at the expense of the disintegrating Tartar power. Russian colonists reached the Pacific Ocean as early as 1643, and Peter the Great (1682-1721) and his successors moved west as well. Peter's greatest success was the winning of the famous "window on the Baltic" which opened the way to easier communication with Western Europe. A few decades later Catherine the Great (1762-1796) joined in the partition of Poland and added vastly to Russian territory in the West. Her successors, in the nineteenth century, completed the conquest of the Caucasus and by 1885 had pushed southward from Siberia to conquer Central Asia.

Russia's defeat in World War I cost her the Baltic provinces (Estonia, Latvia, and Lithuania), Finland, Poland, and Bessarabia; but much of what was lost was restored by World War II, including all of the Baltic provinces, Bessarabia, a small part of Finland, a large part of Poland (whose inhabitants, however, were for the most part Ukrainians and Byelorus-

sians), and parts of Slovakia and East Prussia which had never before belonged to Russia.

At least for the last two centuries, therefore, Russia has had considerable contact with the West; during the nineteenth century, in fact, there was a great intellectual battle among Russian intellectuals between the Westernizers and the Slavophiles. But Western influences have never sunk deep, partly because of the almost constant fighting in recent centuries with neighbors to the west, and partly because the Russians (who had been converted to Christianity by way of Constantinople in the tenth and eleventh centuries) were Orthodox in religion rather than Roman Catholic or Protestant. To-day the newer ideological division from the West heightens the historic sense of separateness and impedes the sort of political and economic co-operation which, simply on geographic terms, would seem obvious and natural.

### *The People: Nationality*

The inevitable consequence of so long a history of invasion, conquest, and war was the building of an empire almost as varied in climate and type of civilization as the British Empire itself. The fact that the Soviet Union is a continuous land mass conceals this situation to some extent; but, as already noted, the Tsars were almost as adept in conquering peoples of other nationalities and colors as were the best of British imperialists. As a result, the rulers of the Soviet Union have been confronted with a peculiar combination of two problems, imperialism and nationalism, which more than almost any others have contributed to international unrest. In this sense the Soviet Union has had to experiment within its own territory in solving problems which the world as a whole must solve if it is to have enduring peace.

In contrast to countries like Great Britain and France, which are largely homogeneous in population, the Union of Soviet Socialist Republics contains more than one hundred and eighty different nations, nationalities, and tribes. Only about sixty of these, however, include more than a few thousands of people; and only a dozen include as much as 1 per cent of the population. Three-fifths of the people are Russian (or "Great Russian," to distinguish them from

the closely related Ukrainians and "White" or Byelorussians), and another fifth are Ukrainians. The remaining fifth include everything from Eskimos to what were only recently nomadic desert tribes, and from Lutheran Protestants in the Baltic provinces to Moslems in the Turkish-Tartar regions. In culture they range from the most primitive peoples to the most highly civilized. Where the Russians themselves have produced some of the world's greatest works of literature and science, some of the lesser nationalities did not even have a written language.

Under the Tsars the existence of minority nationalities had been regarded as a source of weakness, and vigorous efforts were made to discourage their languages, cultures, and religions, to "Russify" them, and to convert them to the Orthodox faith. Even when oppression was not violent, there was steady discrimination against members of the minority groups, and it was natural for them to retaliate with a burning hatred of the Tsarist government. Many of the leaders of the revolutionary movement were drawn from these groups.

#### COMMUNISM AND THE NATIONALITY PROBLEM

There was something ironical in the fact that the first country in which the working class triumphed should have to meet the nationality problem in so extreme a form. According to Marxist thought the workingman has no fatherland. In every country the bourgeoisie exploit the workers, and the worker can be free only when he sees that his real enemies are at home, not abroad. Once the international revolution has taken place and exploiters everywhere have been destroyed, there can be a world state in which all men live together in peace, equality, and happiness; for loyalty to the working class will have replaced any loyalty to national groups.

Even before the revolution, Lenin had made up his mind to fight off all tendencies to organize the country on nationality lines. Stalin, who belonged to one of the minority nationalities, the Georgian, was given the task of developing Bolshevik theory on the subject. Lenin, who provided the framework for Stalin's thought, declared, "A conscientious proletarian will always fight for a large-scale State," and

Stalin similarly stated that "National particularism is not adjustable to the program of social democracy."

At the same time, both Lenin and Stalin were aware of the propaganda value of the slogan of self-determination, and used it to appeal to the minority nationalities even before the Revolution of 1917. With the Revolution, Stalin became Commissar of Nationalities, and a "Declaration of the Rights of the Peoples of Russia" was published, proclaiming the equality and sovereignty of the different nationalities and the abolition of all national and religious privileges of one nation over another and promising the free development of all national and ethnic groups.

Naturally, the more advanced nationalities—the Poles, Finns, Estonians, Lithuanians, and Letts—interpreted self-determination as separate national status. When they proved able to protect their separate identity under their own bourgeois leaders, the Bolsheviks reluctantly accepted their new status. But the independence and self-determination exalted by Lenin was not the "right to separate" but the "right to unite": the former was typically bourgeois, he declared, the latter, proletarian. Thus when bourgeois leadership failed to unite the Ukraine, with its highly developed sense of nationality, Lenin extended "deserving aid" in the form of a Red Army invasion which resulted in establishing a Ukrainian Soviet unit which was then closely associated with the Bolshevik controlled R.S.F.S.R. (Russian Socialist Federal Soviet Republic). Byelorussia, where there was far less sense of separate nationality, was organized on the same pattern. In appearance, the Ukraine and Byelorussia had their own separate units subsequently known as Union Republics; in practice, "socialist unity" prevailed.

Apart from the Ukrainians and Byelorussians, of whom the former were culturally and economically as advanced as the Great Russians, the other nationalities which ultimately became part of the Soviet Union were economically and socially backward. They were Asiatic rather than European; many of them were still nomadic and close to primitive tribal structure. Their relation to the central unit was closer to that of colonies than of minor-

ities in the western sense. The Bolsheviks however, have always closely associated "national" and "colonial" questions. And the political solution devised for the Ukraine and Byelorussia was extended to these areas also.

It was in the political sphere that it was most difficult to reconcile independence and unity. On the face of things, the minority nationalities were given the fullest equality, including separate political units as well as the right to vote and to hold public office, both local and national. Today photographs of the delegates to the Supreme Soviet (the Soviet parliament) often make a point of showing the great variety of racial types composing that body. But from the beginning, there were two factors which made the self-government of the nationality units illusory: their lack of experienced personnel for the jobs of government and, still more important, the unified, centralized Communist Party with its controls radiating out from Moscow. Though the highest offices in the union and autonomous republics (see p. 528; these correspond to some extent to American states) regularly are filled with natives, the minority people exercise little if any control over their own political affairs. The achievement of formal equality provides prestige and satisfaction for those nationalities which used to suffer from overt discrimination; nonetheless the lack of effective power has created tensions not different from those exhibited by the intelligentsia in colonial areas.<sup>4</sup>

The revolutionary character of Communist policy for the nationalities lies in the economic and social sphere. Here, as in political affairs, the keynote of the policy is not liberty, but equality; and equality is interpreted to mean the equal distribution of productive capacity throughout the whole of the Soviet Union. Thus rather than following the traditional practice of keeping colonial territories as suppliers of raw materials, the Communists have deliberately promoted the building of industries in their underdeveloped areas, thus providing, as they maintain, the necessary conditions for equality.

<sup>4</sup> For further information on the influence of nationality divisions on the political structure, see below, p. 460.

In part, this effort to transmit to backward groups the skills of an advanced civilization is inspired by the desire to create an urban working class which will be firm in its support of the Soviet system; in part it stems from the belief that once the different nationalities are on the same material level they will share the same political ideas and loyalties; and in part it results from the necessity of industrializing the country as a whole and increasing agricultural productivity everywhere if the revolutionary promise of material prosperity is to be realized. Regardless of motivation, however, the practical effect has been to open economic opportunities, to raise standards of living and health, and to eliminate much of the backwardness which used to keep the minorities in a subordinate position.

Such an economic transformation was not possible without an educational revolution. Some of the minority nationalities, at the time of the Revolution of 1917, were almost completely illiterate; it was even necessary in some cases to invent an alphabet and to create a written language. Here, too, the Soviet government claims great advances. Where only 3.7 per cent of the Tadjik people were literate in 1926, 71.7 per cent were reported literate in 1939. In the Kirghiz Republic, in the same period, literacy rose from 15.1 per cent to 70 per cent; in the Kazakh Republic from 22.8 per cent to 76.3 per cent; and in the Uzbek Republic from 10.6 per cent to 67.8 per cent. The number of schools, and particularly of higher schools (which the Tsarist regime had regarded with notably little sympathy), multiplied impressively. Where Turkmenia had had 58 schools under the Tsars and 6,000 to 7,000 students, the Turkmen Republic in 1939 had 1,347 schools attended by 204,600 students. The advance was especially important for women who, particularly in Moslem areas, had been condemned to illiteracy, seclusion, and an inferior status.

To some extent, the motive was utilitarian as well as idealistic. Only an educated population could contribute its full strength to the development of the economy; and it was far easier to teach both the ideas of Marx and Lenin and the technical skills needed for industry and agriculture in the native languages rather than

first to teach a new language and then to teach ideas and skills in the unfamiliar tongue.

#### NATIONAL FEELING AMONG THE MINORITIES

In spite of this material progress, however, there is some doubt about the success of the Soviet government in substituting a unifying loyalty—loyalty to a class and a political doctrine—for the diverse national loyalties. The government itself, much as it has encouraged the development of the nationalities socially, economically, and in terms of education, has always drawn the line at the point where this progress might lead to the development of a consciousness of a distinct national heritage and destiny (what is technically known, in official publications, as “bourgeois nationalism”).

According to the official slogan, the culture of a people is to be “national in form” but “socialist in content.” What language a people speaks does not matter, but its loyalty to the Communist system must be unquestioned. Native authors are encouraged in their literary activities, but the content of their writing must not promote a distinct national loyalty. Those who make this mistake may be punished severely. In 1929, for example, such errors caused mass arrests among the intelligentsia of the Ukraine, and in 1930 the All-Ukrainian Academy of Science and various Ukrainian literary publications were suppressed, while professors, writers, doctors, schoolmasters, and priests were imprisoned or exiled for nationalist activity. During the great purge (p. 449) the casualties among the leading figures of the national republics were particularly high.

Both the pleasant and unpleasant aspects of the Soviet nationality policy had their justification, it was often said during World War II, in the fact that the Soviet Union had no Quislings or fifth columnists. Later, however, it was announced that not only the Volga German Autonomous Republic but the Chechen-Ingush, the Kalmyk, and the Crimean Autonomous Republics and the Karachai Autonomous Region had been abolished because of their disloyalty, while most of their inhabitants had been taken from their homes and resettled in other parts of the Soviet Union as punishment for their assistance to the German

invaders. Such action, it may be noted, was not unlike the “collective punishments” for which the Nazis were most condemned.

In the summer of 1946 a fresh cultural purge took place in the Ukraine. Nikita Krushchev, a member of the Politburo (the highest organ of the Communist Party) and secretary of the Communist Party in the Ukraine, declared that publications and speeches of literary men and historians “contained ideological mistakes and distortions and attempts to give rebirth to Bourgeois-Nationalistic conceptions.” The Institute of Languages and Literature of the Ukrainian Academy of Sciences was criticized for publishing a book, *A Survey of the History of Ukrainian Literature*, which contained “bourgeois nationalistic” viewpoints on the history of the Ukrainian people and their culture—its particular errors having been the separation of literary history from the class struggle and the contention that nationalism was decisive in the development of literature. Other authors were criticized at the same time for “openly opposing the Ukrainian people and culture to the Russian people and culture.”

#### RUSSIAN NATIONALISM AND SOVIET PATRIOTISM

The official aim of the Soviet government is to ~~develop among all of the peoples of the Union~~ a Soviet patriotism to replace that narrower nationalist feeling among the constituent nationalities which has been suppressed as “bourgeois nationalism.” Some people that the encouragement of “Great Russian” nationalist feeling during the war, the renewed pride in Russian national history and heroes, like Alexander Nevsky and Peter the Great, and the very naming of the war “The Great Patriotic War” evidenced a turning back to Russian nationalist sentiment. But Marxist appeals were never supplanted even during the war; since its end “Soviet patriotism” has been promoted by every agency of thought and opinion. The sentiment of nationality is encouraged, or even permitted, only insofar as it contributes to the objectives of the Soviet state; yet it will be long before it is completely merged in a purely Soviet loyalty.



### *The People: Religion*

In the years before the Communist Revolution the great majority of the Russian people were adherents of the Orthodox Church. In Finland (which was then part of Russia) and Estonia the Lutheran Church predominated; Poland and Lithuania were Roman Catholic; in the Crimea, the Caucasus, and Central Asia there were Moslems; and in different parts of the empire there were Jews and members of certain dissenting sects. The Russians and the Ukrainians, however, were overwhelmingly Orthodox; and since it was natural to identify their religion with their nationality, the other religions were persecuted by Tsarist officials eager to "Russify" the country as a whole. The Tsar himself directly controlled the Church and was accustomed to use it as an instrument in support of his policy and power; and the Church proved a docile instrument. It valued its privileged position, disapproved of freedom of conscience for other faiths, and willingly supported the government's efforts to convert and harry the non-Orthodox.

The triumph of the Communists in the revolution, therefore, inevitably presented a problem, for on a long series of issues there was a fundamental conflict between the Church and the new government. Marxism maintained that religion was the opium of the people. By promising the miserable of this earth a heavenly reward, the Church was accused of diverting the proletariat from the revolutionary action needed to remedy existing injustices; by teaching the Christian virtues of humility, obedience, and non-resistance to authority, the Church deprived men of the weapons with which they could right their wrongs. Priests and ministers, to the Bolsheviks, were servants and agents of the ruling class. The alliance of throne and altar was regarded as the foundation of Russian absolutism.

#### **MARXISM AND RELIGION**

Even if no such practical considerations had existed, there would have been some hostility between Communism and religion. Marxism is an all-embracing philosophy whose basic principle—materialism—and whose basic method—the scientific approach—are held to be in

direct conflict with the spiritual values of the Church, with its dependence upon revelation and faith. In addition, Communism, as interpreted by Lenin and Stalin, was and is a doctrine which demands the wholehearted, undivided loyalty of its adherents. It cannot share their allegiance, in any sphere, with any other doctrine or authority. It is totalitarian in the full sense of the word, encompassing the totality of man's life. All institutions and organizations, whether political, economic, recreational, or cultural, must be molded by it.

The Church, however, escapes this mold. In every other organization, whether trade union, co-operative, athletic association, or youth society, the members of the Communist Party are expected to form groups for the purpose of directing and controlling the organization's activities. But there are no Party members in the Church. There is, of course, Party and secret police supervision through the state Council on Church Affairs. Moreover, church officials must make affirmations of loyalty to the Soviet state as the price of being permitted to exist. Nonetheless the Church represents a gap in the system of complete control, the only separate agency which rivals the Party in its effort to control and direct the human spirit.

Furthermore, Russian Communists have opposed the church as a drag upon progress, a source of superstition, and an obstacle to the scientific spirit which is the foundation of the effort to revolutionize the country's economy. Agriculture could not flourish, the Communists pointed out, so long as peasants trusted to holy water in preference to insecticides and so long as they planted and harvested their crops according to saints' days rather than according to the weather. The triumph of the Five-Year Plans and the collectivization of the farms, therefore, seemed to call for the destruction of the Church's influence (pp. 503-05).

Finally, the Church as a supporter and even pensioner of the Tsarist state was inevitably linked with the capitalists and landlords. With them it had to be smashed.

#### **THE PERIOD OF PERSECUTION**

During the period of the Civil War (1918-1921) the apprehensions of the Communists



had some justification. The White (counter-revolutionary) armies received the blessing and the support of Orthodox priests and bishops; and the Patriarch and Synod called upon parishioners to organize for the protection of church property. During the great famine of 1921 the government opposed church-sponsored charity but insisted upon the surrender of the Church's valuables other than those having religious significance (there was natural disagreement over the interpretation of this order) as a contribution to relief. Those churchmen who resisted were pictured as enemies of the starving people. Many clergymen, both Orthodox and Roman Catholic, were arrested for disobeying the order, and there were armed conflicts in different parts of the country.

In addition to discrediting the Church, the government for a time encouraged schism within the Church and also gave support to the Protestant sects which the Orthodox Church had persecuted. In 1924 the attack on the Church culminated in the trial and condemnation of high-ranking members of both the Orthodox and Roman Catholic churches, but a wave of protest from abroad brought a relaxation of the persecution.

During the following years the practice of religion was harried in a variety of ingenious ways. Without the appearance of direct persecution it was possible to apply taxation, labor, and other laws in such a way as to impede the holding of religious services, and priests and ministers frequently were arrested on the charge that they had violated such laws. Colorful and bitter propaganda was directed against churches of all faiths under the sponsorship of "Godless" societies which had the active support of the government.

In 1929, in addition, there was a revival of the direct attack. Orthodox priests and Protestant preachers (who were generally Fundamentalist in doctrine) were accused of stiffening peasant resistance to the collectivization of the farms. Many were arrested and sent to forced labor camps along with their more prosperous parishioners; and legislation was adopted restricting the activities of the churches even more severely than before. According to the law of April 28, 1929, religious organizations were forbidden to organize co-operatives

or other economic activities or to give charitable aid to their members. Church property could be used only for religious purposes, narrowly interpreted. Article 17 of the law specifically forbade the churches

to organize either special meetings for children, young people, women, for prayer and other purposes, or general meetings, groups, circles, departments, Biblical, literary, handworking, labour, religious study, etc., and also to organize excursions and children's playgrounds, to open libraries, reading-rooms, to organize sanatoria for medical aid. Only such books as are necessary for the performance of services are permitted to be kept in the church buildings and houses of prayer.<sup>5</sup>

The "etc." was deliberately included to cover any kind of activity which the framers of the legislation might have overlooked.

Such restrictions were particularly hard on the activities of the Protestant sects, but they represented a fundamental blow to all churches by forbidding, in effect, the giving of religious instruction, the making of converts, and the formal education of clergymen. Yet some observers maintained that the persecution had the effect of strengthening the Church by purifying it of all opportunistic elements. With the loss of its former position, those who were lukewarm or who served it through ambition fell away; only those survived who were moved by deep religious faith and who were prepared to suffer persecution. In the course of the years, however, it was also apparent that those churchmen survived who were most obscure and who caused the government the least concern. To attract attention by the vigor and success of one's religious ministry was to imperil one's work and one's liberty. The simplest and safest course was to limit oneself to the conducting of religious services.

Throughout this period there was a marked decline in the number of churches and clergymen. From 1917 to 1941 the number of Orthodox churches fell from 46,457 to 4,225, and of priests from 50,960 to 5,665.<sup>6</sup> Yet it was esti-

<sup>5</sup> Quoted in Paul B. Anderson, *People, Church and State in Modern Russia*, pp. 9-10.

<sup>6</sup> There were also, in 1940, more than 1,700 Roman Catholic churches (many of which were in the newly acquired Baltic and Polish territory), about 1,000 Evangelical (Protestant) societies, about 1,000 synagogues, and about 1,300 mosques.

mated in 1937 by Yaroslavsky, the head of the Union of the Godless, that a third of the adult urban population and two-thirds of the adult rural population were still, in some degree, religious.

#### WARTIME POLICIES

The entrance of the Soviet Union into World War II was accompanied by an important change in religious policy. Partly in order to conciliate opinion in countries from which the U.S.S.R. was receiving aid and partly in order to rally a united people behind the national war effort, the restrictions on the church were greatly eased. The Orthodox Church was permitted to elect a new Patriarch, and the Soviet government was officially represented at the magnificent ceremonies in which he was invested. A few of the churches were now reopened, and a special government department, the State Council on Greek Orthodox Church Affairs, was established. The antireligious periodical *Godless* was suppressed, and the Church was again allowed to issue religious publications and to establish educational institutions for the training of priests.

Leaders of the Orthodox Church welcomed the change with relief and even with enthusiasm. Its highest officials outdid themselves in appeals to parishioners to support the war effort; messages of loyalty and thanks were offered to Stalin, "our God-sent leader"; and repeated appeals were addressed to religious people in other countries to give aid to the Soviet Union.

#### CURRENT ATTITUDES

The willingness of the Orthodox Church to serve the Communist regime as it had the Tsarist has made it an extremely useful instrument of Soviet expansionism. During the war the Uniate Church, powerful in the Ukraine, was forcibly detached from its allegiance to the Vatican. Those of Orthodox faith in Finland, Poland, and Lithuania were forced to submit to the Moscow Patriarchy, which since the war has similarly succeeded the Patriarchy of Constantinople in the allegiance of the Rumanian, Bulgarian, and Albanian Orthodox Churches. Not only is the Orthodox Church a supporter of government policy in the Balkans and Near

East; it seems ready also to lend what channels of expression it has to anti-Western propaganda.

Within the Soviet Union itself there is open evidence that religion still has a hold on people. Walter Bedell Smith, American Ambassador after the war, declares that churches in Moscow, a city largely of young people, were packed to overflowing for the Easter celebration. Others estimate that over 10 per cent of the people are supporting members of the Church. But the modified toleration of religious observances has been countered since 1948 by increased anti-religious teaching in the schools and Komсомols (p. 482). There is no lack of awareness in the Party that the philosophy of the Church inevitably conflicts with that of the Communist state; in this sense, it is the only doctrine logically incompatible with Communist philosophy which may still be taught in the U.S.S.R. It is impossible for "believers" to be admitted to the Communist Party or to important positions in the government, and the avowed aim of the government is to raise a new generation which will be "free of religious superstition."

For two groups—the Jews and Roman Catholics—persecution has in recent times increased rather than relaxed. Both are identified with the "cosmopolitanism" against which Soviet propaganda has turned so vehemently since 1949. While there are few Roman Catholics in the Soviet Union itself there has been persistent pressure against them in the satellites. Current anti-Semitism in the Soviet Union is still far from reaching the extremes of Nazi Germany but is in sharp contrast to the earlier efforts of the Soviet Government to stamp out the historic anti-Jewish sentiments of the Russian people. Despite legal restrictions on discrimination, numerous Jews seem to have been removed from high Soviet offices, though Soviet sources always emphasize that one Jew, Kaganovich, is in the Politburo, and another, Ehrenburg, is a distinguished writer. Moreover anti-Semitic pogroms have taken place in the Ukraine since the war. In all parts of the country, including apparently the former Asiatic Autonomous Jewish Oblast of Birobijan, there are systematic efforts to eliminate distinctive forms of Jewish life, such as national costume, and religious observances.

Some people believe that the Soviet Government is more tolerant of the Orthodox Church than any other because of the degree to which that church holds ideas which in a measure contribute to the sense of oneness of the Russian people. In contrast to other branches of Christianity, says this school of interpretation, the Orthodox Church believes the highest spiritual authority to rest neither in the leaders of the Church nor in the religious insight of the individual but in the whole community of the faithful. Truth is in the congregation, not in the individual. From this truth there may be no dissent, and by it no part of the individual life is unaffected. In the words of Sir John Maynard, a perceptive student of Russian social and political life in the twentieth century, who adopted this interpretation, the consequence is "the merging of the individual in the mass, and the weakness of the individual will" together with "that absoluteness in Russian thought which brooks no compromise. He that is not with them is against them. To differ from the brotherhood—even when the brotherhood has taken the form of the Party—is to pass away into outer darkness. . . ."<sup>7</sup>

### **The People: Class Structure**

According to official publications the class structure of the Soviet Union is a very simple one. With the liquidation of the exploiting classes and the collectivization of the farms only two classes have survived: workers and peasants. Between these classes there is no "class struggle." They are "friendly" classes whose interests are so harmonious as to require no distinct party representation (pp. 470-71). Frequent mention is also made of a third group, the intellectuals, who contributed many of the early leaders of the revolution but who were long regarded with suspicion because of their association with the former ruling classes. Today, Communist leaders emphasize that the intellectuals now are drawn from worker and peasant families; though not a separate class they are known as a "stratum," that is, those of high status within the community. Since the late thirties, the intellectuals have had an

increasingly important role of leadership in the Soviet state.

According to the 1939 census 32.2 per cent of the working population were industrial workers, 44.6 per cent were collective farmers, 17.5 per cent were office workers, clerks, and so forth. In the same year, Molotov told the Eighteenth Party Congress that of these enumerated groups nine and a half million were intellectuals, that is, about 13.5 per cent of the population, including factory managers, scientists, teachers, artists, army officers, and the like. Less than 2 per cent were peasants farming individual holdings.

No more vivid illustration could be given of the extent of the revolution in the Russian way of life since the Communists took power, for in 1913 industrial workers comprised less than 17 per cent of the population, 65 per cent were peasants, and 16 per cent either were large farmers or belonged to the bourgeoisie. In particular, these figures represent a tremendous shift in population from the country to the city. Between 1913 and 1939 the proportion of people living in the cities rose from 15 per cent to 32.8 per cent; and from 1926 to 1939 alone the cities gained 29,600,000 inhabitants, of whom 18,500,000 were migrants from rural areas.

This shift in population marks a strengthening of the foundations of the Communist regime. It was one of the paradoxes of the revolution that, although Marxist theory expected revolution to result from the growth of an industrial working class, the Communist Revolution first triumphed in a country which was overwhelmingly agricultural. So long as the workers remained a small minority, and so long as most of the peasants farmed individual holdings, the revolution was in danger. The possibility that the individual farmers might grow into a class which, like the more prosperous farmers of France, would be economically conservative, devoted to the institutions of private property, and consequently a threat to any socialist program, was a source of special anxiety to the Communists. Even with full collectivization of agriculture, the Communist Party is still much less strong among the peasants than in the cities.

<sup>7</sup> Sir John Maynard, *Russia in Flux*, p. 52.

## A NEW CLASS STRUCTURE?

In recent years considerable controversy has arisen over the charge that a new class structure is replacing the old one. It had, as we have observed, been recognized that during the first stage of Communism there would continue to be some inequality of income. But with the advance toward the second stage, Lenin anticipated a growing equality. In particular, government officials were to lose their favored position and to receive a reward no greater than that of the average workman (p. 429).

In 1934, however, Stalin himself bluntly repudiated what he called "petty-bourgeois equalitarianism," which he termed leveling down. In place of the goal of equality of income, he put equality of opportunity to develop the skills needed in an industrial society.

In practice, the differences in income have become quite considerable, and government officials and directors of factories (who are, of course, government employees) hold a highly favored position. In 1950, the monthly pay of a skilled worker averaged about 900 rubles while directors or managers received 9,000 to 16,000 rubles a month, that is ten to fifteen times as much. Even more striking are the wide differences in the pay of workers within a single industry. In 1948 a delegation of foreign trade unionists found the wages of coal workers ranging from 250 to 2,000 rubles a month.<sup>8</sup>

In addition to differences in income, certain nonfinancial rewards are given to favored individuals. High administrators and government officials are provided with apartments, cars, and other luxuries. John Scott's *Behind the Urals* describes the home of the general manager of a plant at Magnitogorsk: a fourteen-room house, richly furnished, with billiard room, play room, music room, study, deer park, and garden. It is not unusual for large financial rewards to be given for outstanding achievements, artistic as well as industrial; certain writers, composers, and scientists are among the wealthiest people in the U.S.S.R. When a state loan was floated in the spring of 1947, a leading scientist was praised for subscribing 140,000

rubles—the equivalent of seventy years' wages for the lowest paid Soviet workers—and two popular authors subscribed 57,000 and 40,000 rubles respectively. Stalin prize winners may get up to 200,000 rubles—although such rewards might seem incongruous in a society once dedicated to moving from the Socialist principle of rewarding "each according to his work" to the Communist principle of rewarding "each according to his needs."

Statistics on the distribution of savings in 1938 indicated an inequality in the possession of wealth not unlike that already referred to in Western countries (pp. 11, 241). Sixty-seven per cent of the savings accounts contained 100 rubles or less and represented only 5 per cent of the total amount of money deposited in banks. Ten per cent of the accounts, containing 1,000 rubles or more, represented 67 per cent of the deposits. Figures for 1947 indicate that 80 per cent of depositors had less than 3,000 rubles.

Yet if substantial inequality in income and property is, at least for the present, a recognized characteristic of Soviet society, it should be pointed out that there is at least one restriction on the accumulation of wealth. Where most of the great American fortunes have grown from the profits of privately owned business, factories in the Soviet Union are publicly owned, and wealth comes from salaries and special bonuses, not from profits or dividends on stock. It is as though Henry Ford had been able to enjoy only that part of his income which represented his salary as manager of the Ford Motor Company and not that part which represented his profits as owner. Under such circumstances his wealth, although considerable, would have been only a small fraction of its actual size.

It is still too early to tell whether the special advantages of the more prosperous class can, through inheritance of money and the ability to pay for education, be handed on to children in such a way as to introduce an element of heredity into the class structure. The continuing need for administrative and technical ability undoubtedly will for a long time make it possible for others to rise into this class; and a marked increase in productivity would reduce the more glaring differences in the enjoyment

<sup>8</sup> A ruble is officially worth 18 cents. To translate the Russian figures into American money is only misleading, however, since purchasing power (even if goods were available) is so different.

of scarce goods. In addition, there is always the possibility that the government may take drastic action to limit distinctions in wealth. In December 1947, for example, a decree provided for the issuance of new currency which could be exchanged for old currency at the rate of one new ruble for ten old. Money subscribed to state loans was exchanged into a new loan at the rate of one new ruble for three old ones. Savings deposits of less than 3,000 rubles were redeemed at the rate of one new ruble for one old one, while above this figure there was a progressive increase in the proportion of old rubles to new. Thus those who had accumulated currency were the worst sufferers, but all who had large savings accounts or holdings of government bonds lost the greater part of their wealth.

At the same time, it must be remembered that the extent of inflation in the prices of food and other necessities has placed a continuous debilitating strain on the Soviet masses. A recent careful study of comparative costs and wages arrives at the startling conclusion that despite the obvious increases in wage levels, the purchasing power of the Soviet worker even after the 1947 deflationary measures was not so great as twenty years earlier, before the Five-Year Plans were instituted. Price reductions instituted in March 1950 and March 1951 improved real earnings somewhat, though not to compare with British, or even less, American standards.

Thus the class structure of the Soviet Union, in terms of income, is somewhat closer to the class structure of the West than official publicity cares to admit. In fact, British income levels are far more equalitarian today than are those in the Soviet Union. Moreover it is significant that American businessmen like Eric Johnston and Wendell Willkie were able to find a class of administrators, engineers, and managers in the Soviet Union, who in education, outlook, and material rewards were not too unlike the corresponding class in the United States. Thus it would be rash to assume that there is not a considerable gulf between management and workers in the Soviet Union, or even that suspicion and resentment of management are not more common among Soviet workers than among American.

### III. ORGANS OF MASS COMMUNICATIONS

The Westerner who looks at the channels of public opinion in the Soviet Union must change almost all his ideas about their political function. There is no assumption, as in France, that the press should give voice to every important section of opinion in the country, nor is it assumed, as in the best British and American newspapers, that the press should present the news as completely, accurately, and objectively as possible and that editors (or owners) should have the fullest freedom to express their own ideas on politics even when these ideas are bitterly critical of the policy of the government. Men educated in the liberal tradition of Jefferson and John Stuart Mill are accustomed to think of a diversity of opinion as something positively to be desired as a way both of educating the public and of winning a closer approximation to truth and justice. No one, they believe, has a monopoly of the truth, and it is only through the competition of different ideas that what is true can be detected and what is false discarded.

Nothing could be further from the Communist outlook. The Communist believes that truth and morality are relative to the interests of a class. In a capitalist society, he maintains, the press reflects capitalist ideas and serves as a weapon against the interests of the proletariat. Similarly, in a Communist society the press must be a weapon in the struggle to defeat the enemies of the working class and to build a new civilization. "Information," in the words of D. Kuzmichev's *Problems of Journalism*, "is a means of class struggle, not a mirror to reflect events objectively."

What is true of the press is true of every other instrument of communication. Writers and artists in the Soviet Union are reminded constantly that they are engaged in a battle with hostile ideologies. To speak of "art for art's sake" is to desert the battle and to help the enemies of the proletariat. It is not enough to desist from opposing Communism and its aims. The only permissible course is one of active, vocal, and enthusiastic support. The press and all other forms of communication must be in-

struments of education, explaining to the masses the purposes of the government, inspiring devotion to the Communist Party and its leaders, and detecting and denouncing dangerous ideas, dangerous practices, and dangerous people.

In part, the work of controlling public opinion is the negative task of preventing the publication of the "wrong" ideas. For this purpose there is a government censorship office (Glavlit) which must give its approval to all material published in the U.S.S.R. Far more important, however, is the work of spreading the "right" ideas; and this task falls pre-eminently to the Communist Party's Department of Propaganda and Agitation which, either directly or through the action of similar departments in regional and local organizations of the Communist Party, appoints newspaper editors, supervises their editorial policy, determines what films may be produced and exhibited, criticizes the work of authors and artists, and directs hundreds of thousands of "agitators" or "political enlightenment workers" in their work of molding public opinion.

### ***Propaganda and Agitation***

The Communists make a clear differentiation between propaganda and agitation. Communist *propaganda*, in the words of a recent authority, is the "intense elucidation of the teachings of Marx, Engels, Lenin, and Stalin, and of the history of the Bolshevik party and its tasks." Through this elucidation in schools and universities, retraining courses, and constant planned discussions, party and government officials, directors of industries, and intellectuals are "armed" with knowledge of the "laws" which govern the development of society and political conflicts. The monopoly of truth in the hands of the Communist inner circle provides it at one and the same time with the authority of the priests of orthodoxy and a complete unchallengeable answer in every controversy.

*Agitation*, in contrast, is the process of explaining to the masses the government's decisions and policies, and of mobilizing their efforts to carry these out. Thus, while propaganda is directed chiefly at the more advanced

strata in Communist society, agitation is aimed at the great mass of the people.

### **THE AGITATORS**

In its incessant efforts to mold the thinking of the Russian masses, the Communists put their heaviest emphasis on daily face-to-face contacts between the "agitator" and those to whom he should explain the party line and contemporary state of affairs. For this purpose an extraordinary number of people are trained and put into service. In the Ukraine, for example, there were 764,000 agitators in 1949—about one for every fifty of the population. In Moscow, the proportion was still higher, one agitator to every thirty. The agitator, in fact, is the major link between the party leadership and the masses. He works under the supervision of the secretary for propaganda and agitation of the local Party unit who, in turn, is linked directly to the central Party Department in Moscow.

Not surprisingly, it is not always easy to secure an adequate number of agitators. The Communists prefer to have an industrial worker or a peasant on a collective farm act as agitator in his own unit. But because the agitator must always have an answer to criticisms and questions, and also urge his comrades to harder and harder efforts, he often finds it difficult to combine this role with good relations with his fellow workers. Hence managers are also used as agitators. But since their prestige hardly makes up for the quality of personal relationship gained through rank-and-file agitators, both sources are tapped in the unending effort to arouse Russian workers to a sense of crisis and willingness to contribute their maximum efforts to production.

### ***The Press***

The press is similarly looked on as an agency for mass communication of the "right" ideas. "A newspaper is not only a collective propagandist and collective agitator," declared Lenin in a slogan quoted constantly in discussions of the function of the Soviet press; "it is also a collective organizer." Its concern is not with the unusual or spectacular event, as is true so often in Western countries, but with the build-

ing of the Soviet state. What is newsworthy is only what is related to that process, for example, the Stakhanovite movement for higher individual production (p. 517). For days on end newspapers may devote half their space to the discussions of a scientific conference; events may not be mentioned until weeks after they occur, when they can be presented as a more forceful illustration of a particular thesis. The responsibility of the press is to present the Party, the elections, and the Five-Year Plan in such a way as to aid the whole process of socialist construction.

Periodicals, for the most part, fall into three main classes: organs of the Communist Party, publications of the government, and publications of trade unions, co-operatives, and similar organizations.

The most important of the Communist Party's publications is the newspaper *Pravda* (truth); but there are also special publications for Party youth, workers, peasants, and so forth. The leading government publication is the newspaper *Izvestia*, which carries the texts of laws and decrees; and in addition individual ministries (like the army) have newspapers and magazines of their own. Among the publications of other organizations, the trade union paper *Trud* is particularly important. *Pravda* and *Izvestia* have their own foreign correspondents, and other publications are supplied by Tass, the government news agency.

*Pravda* is easily the most important of these publications. Although the U.S.S.R. is a much larger country than the United States, *Pravda* has a nation-wide circulation. Mats are flown from its publishing house in Moscow to other cities, where local editions are put out. Its circulation is over two million (1950), and its influence is multiplied by the fact that its editorials and material are reprinted in regional and local newspapers throughout the country.

In one way, *Pravda* is the most powerful newspaper in the world, for there is no source within the U.S.S.R. from which its pronouncements can be questioned. In the words of André Gide (one of France's greatest writers who was, for a time, an outstanding admirer of the Communist system), "In the U.S.S.R. everybody knows beforehand, once and for all, that on any and every subject there can be only

one opinion. . . . Every morning the *Pravda* teaches them just what they should know and think and believe. . . . So that every time you talk to one Russian you feel as if you were talking to them all."<sup>9</sup>

It is not considered enough, however, to have a single authoritative source of news; there is a highly complicated and well-integrated series of specialized newspapers at every level (provincial and local as well as national), and for every group. By 1939, for example, there were about 4,000 newspapers in the agricultural press, issuing ten million copies at each printing; the children's and young people's press includes 150 newspapers and has a circulation of three million. And in addition to printed newspapers, there are thousands of wall newspapers in shop, schools, offices, and so forth, which are looked on as part of the same system for driving home the same ideas.

Such a situation naturally makes life far easier for the government and the ruling party than is the case in other countries. It is never necessary for them to defend themselves against searching and hostile criticism. The government is in a position not only to teach the people what it wants them to believe but to keep from them information which would prove inconvenient or embarrassing. Thus when the press informs the people that their standard of living is far higher than that abroad, that everywhere else the working class is oppressed, and that nowhere else is there such freedom, it is more apt to be believed than would be the case in a Western country where many alternative sources of information are available. At the same time, interviews with ex-Soviet citizens indicate considerable popular skepticism about what is reported in the press about conditions abroad, skepticism arising in part as a result of firsthand reports by millions of Soviet soldiers and workers who have been in the West, and of foreign broadcasts.

Because of its control over the press and other formal media of information, however, the government has powerful means of gaining public support for its policies even when fundamental changes are made with discon-

<sup>9</sup> André Gide, *Return from the U.S.S.R.*, p. 27.



certing rapidity. In the United States, Great Britain, and France the government often is prevented from pursuing a vigorous foreign policy because of the opposition of a large part of the press and the public, and any change of policy must be preceded by lengthy discussion. But in the Soviet Union the government can shift official policy overnight with the assurance that editorial support will be unanimous.

#### "SELF-CRITICISM"

In one sense, however, the press has the function of stimulating discussion. Since no outside sources of criticism are permitted, the supporters of the government must themselves provide information about shortcomings in the application and administration of official policies (the policies themselves, of course, are above criticism). Therefore, one of the activities of the newspapers is the making of investigations on the basis of information sent in by readers and the publicizing of instances of slackness, inefficiency, discourtesy, and stupidity on the part of administrators, factory directors, and public servants generally. In this work the papers make use of many thousands of worker and peasant correspondents throughout the country. And in this connection, at least, there is some encouragement for the ordinary citizen to look at authority with critical eyes and to indulge in a type of freedom of speech.

"Self-criticism" (*samo-kritika*), called a pillar of Soviet democracy, has two elements: the one already described, which is called "criticism from below," and the orders and directives from Party and other supervisory organs which are called "criticism from above." "Criticism from below" is concerned only with the *way* in which directives are carried out, and must be "constructive," that is, aim to improve efficiency or discipline.

Though it is artificial to try to compare the function of criticism of American newspapers with that of the Soviet press, there is at least a measure of truth in the comment that in the United States it is the President and little else that is criticized, while in the Soviet Union, it is never Stalin and his policy which are criticized but practically everything else.

It is wise, however, for the critic to be sure

he has the support of some higher authority as otherwise he may be subject to retribution.

Narrow as its range may be, "criticism from below" can be highly useful to the regime in checking the lesser bureaucracy and in pointing out bottlenecks. In some measure it also acts as a safety valve by turning discontent against those immediately responsible for the execution of policies. With all its limitations, it is one of the more substantial links between the masses of people and the top Party leaders.

#### The Radio

Widely regarded as the supreme medium of mass communication, the radio, like the press, is directed by the government and the Party. Fewer individual families own radios than in the United States and Great Britain, but the government supplies them to clubs, factories, and other places where people assemble so that important pronouncements and programs can be heard by the great majority of the population.

#### The Motion Picture, the Theater, and Other Forms of Artistic Expression

In the battle of ideas not only the press and the radio but the stage, the screen, poetry, fiction, painting, and even music may be important weapons for indoctrinating and inspiring the masses; and the foreigner is likely to have the feeling that it is chiefly as instruments of propaganda that these arts are considered worthy of cultivation. It is true that the film is looked on as a distinct form of art; that music, generally good music, has a substantial share of radio time. But the attempt to devote oneself to artistic production devoid of ideological content subjects the offending writer or composer to severe reprimands. Thus, in a remarkable speech delivered in August 1946 Andrei Zhdanov, one of the most prominent leaders of the Communist Party, reproached authors for having wandered into "non-political channels, deprived of ideology and principle" and for having "lost their sense of responsibility to their people, State, and party."

This is an attitude applied to all forms of artistic endeavor. Plays, says *Pravda*, "must re-

flect the life of Soviet society in its constant movement forward," and critics are told to "carry on a decisive struggle against a political and unideological theatrical criticism." The poet Boris Pasternak was criticized for work which was "apolitical and idealless, isolated from the masses of the people." The second part of Sergei Eisenstein's film, *Ivan the Terrible*, was suppressed for portraying Ivan as a cruel tyrant rather than as a great state builder in accordance with his new position as a national hero. The composer Shostakovich was attacked because his music lacked "warm ideological conviction," and even children's magazines have been reprimanded for printing "nonsensical fairy tales, which take the youthful reader out of the realm of reality" instead of emphasizing "the problems of life and struggle in our socialist fatherland."

To the Westerner who hopes for mutual understanding and the breaking down of the iron curtain, one of the most serious aspects of this control is the frequency with which artists are attacked for showing sympathy with "Western bourgeois culture," which is "alien to the Soviet people." In 1947 even the head of the Communist Party's propaganda department, George F. Alexandrov, the author of a history of pre-Marxist philosophy, was censured by Zhdanov for having fallen into "the captivity of bourgeois historians of philosophy."

### **Orthodoxy in Economics and Genetics**

When artists and writers are "urged" to conform to the party line, it is perhaps not surprising that party orthodoxy should also be demanded in fields like economics and genetics. Yet for Westerners who believe that natural and social scientists must pursue the freest possible investigations and have full independence in reaching their results, the outcome of the Varga and Lysenko controversies in the Soviet Union is both startling and disturbing.

Eugene Varga was director of the Institute of Economics in Moscow at the end of the war. In response to official pressure, he prepared and published in 1947 an extensive work entitled "Changes in the Economy of Capitalism Resulting from the Second World War." In general, it embodied what American econo-

mists would consider a harsh and unduly pessimistic picture of the immediate past and future of the capitalist and, in particular, the American economy. Varga did declare, however, that the standards of living in the United States and Great Britain were fairly high, that measures like rationing and price control indicated that their economies had not been under the unrestricted influence of monopolies during the war, and that he considered that the "final" effects of World War II on the capitalist economy would not be felt for ten years. For this "failure" to realize that the war had sharpened the contradictions of capitalism and the exploitation of the masses to the point where crisis was imminent, Varga was sharply criticized in three long sessions with fellow economists in May 1947. Equally false was found his conclusion, based on the experience of India, that colonies can achieve independence by an evolutionary process. The work was thus condemned, and the Institute of Economics discontinued. Varga himself ultimately conformed to pressure. At no time in the controversy were facts brought forward to support the criticisms; on the contrary arguments were based almost entirely on Marxist-Leninist orthodoxy. Thus one is left wondering not only whether independent scholarship will be permitted in the Soviet Union but, what is a matter of perhaps even greater ultimate concern, whether under the circumstances its leaders can possibly secure a realistic picture of the international scene.

The genetics controversy was between the adherents of the almost universally accepted Mendelian theory of heredity, on which a vast amount of exact data has been accumulated, and an older, so-called Michurian concept, upheld by the Soviet scientist Lysenko, according to which acquired characteristics are inherited through a process that is cumulative from generation to generation. Though the controversy was carried on between geneticists, the verdict in favor of Michurin's theory was reached not by free inquiry and the presentation of evidence but by fiat of the Central Committee of the Communist Party. It is in keeping that *Pravda* reported that this decision, announced by Lysenko on August 7, 1948, during the conference on biological science, gave rise to "a stormy, prolonged ovation . . . in honor of the wise

leader and teacher of the Soviet people, the greatest scientist of our era, Comrade Stalin.”<sup>10</sup> It is similarly significant that the recantation by one of the Soviet geneticists formerly opposed to Lysenko stated that “we must be on the same side of the scientific barricades as our Party and our Soviet science.”<sup>11</sup>

### Education

One of the most powerful instruments for the inculcation of the proper social and political attitudes is, of course, the educational system (pp. 549-51). It is the duty of teachers to develop those qualities of co-operation and responsibility necessary for life in a collectivist society: a recognition of the duty to work and a devotion to the common welfare. It is also their duty to build a “hot love for country,” a “flaming hatred of her enemies,” and those qualities of discipline, obedience, endurance, and courage which are necessary for victory in war. Many of the directives given to teachers are interchangeable with those given to artists and authors. Thus *Pravda* at the beginning of a new school year warned teachers to fill their students with “profound contempt for bowing and scraping before the bourgeois culture of the West.” Similarly, the teachers in the higher educational institutions of Moscow declared that “all science is party science, and . . . its teaching cannot be divorced from the policy of the party. . . . Every day the student will be nurtured in Bolshevik thought.”

This constant indoctrination of the children in allegiance to the Communist Party and its leaders, and the tenets of Marxism-Leninism-Stalinism, has far-reaching political consequences. In the absence of other sources of information, and of the tradition of political questioning and criticism in which American, British, and French students are raised, there is a strong tendency to accept the orders of Soviet leaders as necessary and wise. Yet at the same time the information gained from *émigrés* suggests that there is perhaps more questioning in Soviet schools and colleges than we might anticipate, questioning which arises out of inconsistencies

between slogans and practice. While such questioning offers no threat to the regime, it may yet keep alive the spirit of inquiry which dictatorships are loath to see.

### The Suppression of Opposition

The positive function of developing enthusiasm for and devotion to the Communist way of life belongs to the schools, the press, and other instruments for communicating ideas; the negative function of suppressing opposition belongs to the political police.

The origin of the political police lies in the desperate position of the Bolshevik government following its victory in the revolution. Its enemies, both at home and abroad, were numerous and powerful. To Lenin it was obvious that that party which was best armed and most ruthless would win. Those who were halfhearted, squeamish, and over-scrupulous in the choice of means would end by destroying the very cause they had at heart. Therefore the enemies of the revolution were to be crushed pitilessly wherever they appeared. In the words of Lenin in 1921, there must be a “terroristic purging; summary trial and death by shooting. . . . We shall speak the bitter and undoubted truth . . . terror cannot be dispensed with, notwithstanding the hypocrites and the phrase mongers.”<sup>12</sup>

The Communists’ triumph over their enemies in the Civil War did not end the life of the political police, and under one name or another—Cheka, OGPU, NKVD, and, most recently, MVD (Ministry of the Interior) and MGB (Ministry of State Security)—it has survived and even flourished to the present time. Today the MVD has its own uniformed troops and air force, and extraordinary powers of arrest, examination (in order to extract confessions), and imprisonment far beyond anything possessed by the police in Western democratic countries. Its prisoners reputedly constitute the largest labor force in the country. Thus it is to some extent a state within (or above) the state, constantly watching and supervising the activities of all its organs and administrators.

Officially, the secret police operate to protect the country against foreign enemies and “spies

<sup>10</sup> Conway Zirkle, *Death of a Science in Russia*, p. 249.

<sup>11</sup> *Ibid.*, p. 273.

<sup>12</sup> V. I. Lenin, *Selected Works*, Vol. IX, p. 192.

and wreckers" sent in from abroad, for by 1936 all hostile classes were supposed to be liquidated. From the mid-thirties, however, the secret police have acted against deviationists and lax party members as well as obvious adversaries. They conducted the great purge of 1936 to 1938 in which perished the "old Bolsheviks" who were not staunch Stalinists. Of the seven men who were members of the Politburo at the time of Lenin's death, only Stalin survived: one member (Trotsky) was assassinated in exile, one committed suicide, and four were executed. Only a small minority of the members either of the Council of People's Commissars (the Soviet Cabinet) or of the Communist Party's Central Committee retained their former posts, and the carnage was particularly heavy among leaders of the minority nationalities who held high office in the Union Republics. For many months there was an epidemic of hysteria which led to universal denunciations, mass arrests, and the execution of thousands of people who had been active Party members.

Since World War II the secret police have dealt ruthlessly with those guilty of criticism, laziness, economic failure, distinctive nationality customs like those of Jews and Moslems, and less clearly defined offenses. Though there have been no spectacular arrests or executions, with the exception of the punishment and transplanting of the disloyal national minorities (p. 437), there has been no slackening of its constant activity in every area of life.

Merle Fainsod, one of the foremost American authorities on the Soviet Union, reports from his

talks with recent Soviet *émigrés* in Germany that while rank-and-file soldiers complained most of poor food, rigorous discipline, and the privileges of the officers, the bureaucrats, officers, and intellectuals were most bitter at the prevailing sense of fear and insecurity in the Soviet Union. They spoke of the constant surveillance of the MGB, and the oppressive sense that they might be swept out of their position at any time into a forced labor camp.

The actual size of these forced labor camps has been much disputed—estimates run from eight million to twenty million—but even if the smaller figure is accepted it is sufficiently high for most people in the Soviet Union to know someone who has been taken to such a camp. From their own experience, therefore, a vast number of Soviet citizens know that many who are thus imprisoned are "innocent" according to any objective moral standard. But in totalitarian countries mass indignation can hardly exist, let alone be expressed; reactions are likely to be a compound of fatalism, indifference, and fear.

That there are dissatisfactions and tensions in the Soviet Union is undeniable. That they are strong enough to imperil the regime in any way is highly unlikely. Propaganda and terror are a powerful combination, particularly for people who have never known a high standard of living or industrialism as it operates in the West. Coupled with a high degree of organization under the centralized direction of the Communist Party, they provide means of control and stability which will not easily be shaken.

## CHAPTER 2

# The Soviet Political Heritage

### I. HISTORICAL INFLUENCES

No aspect of Russian history impresses the Western democrat more forcibly than the persistent tradition of absolutism in government, the recurrent dependence upon violence to solve political problems, and the lack of experience with free institutions and constitutional procedures. Neither the Byzantine nor the Tartar influence (and these were the two civilizations with which the Russians were in closest touch before the sixteenth century) was such as to foster a tender regard for individual liberty or popular government; and the domination of the country by the Tartars for two and one-half centuries effectively halted whatever native development there might have been toward self-government, and cut Russia off from any liberating influences from the West. The princes of Moscow first established their power through the favor of their Tartar rulers; and the almost constant warfare through which they enhanced their power increased the need for leadership and a concentration of autocratic power at the same time that it maintained the barrier against Western influence. The currents of the Renaissance, Reformation, and Counter Reformation failed to reach the Russian shore. "Russia was cut off, almost as completely as the mythical realm of Prester John, from the influences which might have enriched her life."<sup>1</sup>

With few exceptions, the story of modern Russia, from its development out of the Muscovite principedom to the present, has been a story of arbitrary power arbitrarily exercised. The very name of Ivan the Terrible (1533-1584), the first of the Tsars, is (outside the U.S.S.R.) a byword for the most depraved and revolting cruelty.

And although Ivan lived in an age when the England of Henry VIII and the France of the St. Bartholomew Massacre hardly qualified as examples of enlightened humanitarianism, neither English nor French history offer any parallel to the bloody and disordered political history of the following centuries: the succession of palace revolutions, murdered rulers, and civil strife between rival claimants to the throne. In contrast to Great Britain, where the outstanding characteristic of the Constitution has been its slow, gradual, and continuous development, political development in Russia remained disordered and subject to repeated swerves. Even after the establishment of the Romanov dynasty in 1613, there was little of the regular continuity of government which permits free institutions and a constitutional tradition to arise. Whoever had the power seized the throne, and the people submitted.<sup>2</sup>

### *The Autocratic Tradition*

Although the nineteenth century brought a more orderly succession to the throne, Russia remained, for the rest of the world, a symbol of tyranny, absolutism, backwardness, and reaction. Alexander I (1801-1825), who had at first been

<sup>2</sup> Thus, after the death of Peter the Great in 1725, there was no clear succession to the throne because Peter, like Ivan the Terrible, had slain his heir. Peter's second wife, Catherine (who had been a Lithuanian servant girl and who had no personal right to the throne) seized power by force and held it until her death in 1727. The crown then passed to Peter's young grandson, Peter II (1727-1730); then to Peter's niece, Anne (1730-1740); then to Anne's infant grandnephew, Ivan VI (1740-1741) who was dethroned and, later, murdered in prison by Peter's daughter Elizabeth (1741-1762). Elizabeth's nephew Peter III, a German prince, was dethroned by his wife, Catherine the Great (1762-1796) and, like Ivan VI, was killed in prison. Catherine's son and successor, the tyrant Paul (1796-1801) was strangled by his own officials.

<sup>1</sup> Maynard, *op. cit.*, p. 4.

influenced by liberal ideas, ended in the camp of reaction from which his brother and successor, Nicholas I (1825-1855), never emerged. Nicholas I's son, Alexander II (1855-1881), a conservative but no tyrant, introduced important reforms, notably the freeing of the serfs in 1861; and for a time there was hope of a more liberal government. An attempt at assassination in 1866, however, precipitated a period of reaction; and another (and successful) attempt in 1881 ended whatever hope there was for the peaceful development of a constitutional regime. The last two Tsars, Alexander III (1881-1894) and Nicholas II (1894-1917), were determined to rule as autocrats. Under the pressure of the short-lived "Revolution of 1905," which was occasioned by the disastrous war with Japan, Nicholas II was forced to authorize, for the first time, a representative assembly on the Western model, the Duma. But as soon as possible he restricted and undermined its power (pp. 452-53).

None of these sovereigns was ever subject to effective constitutional limitations. Until the nineteenth century even the most powerful subject lived in danger of arbitrary arrest, imprisonment, and execution; and even during the nineteenth century the Tsar's police and censors kept the closest guard against any symptom of political liberalism.

The people, it is true, were not always completely docile. From the sixteenth century on there were frequent peasant revolts, some of which covered great areas and threatened the state itself. Yet the participants in these revolts did not think of themselves as fighting against the Tsar. The evils they suffered were blamed upon his favorites or subordinates, and the Tsar was even thought of as a protector standing above local oppressors. Sometimes it was charged that the true Tsar had been dethroned and that an impostor reigned in his stead (a long series of pretended Tsars won great followings among the masses). But the tsardom itself, among the peasants, was beyond challenge.

What opposition there was to Tsarist autocracy came rather from the upper or the middle classes. The first serious revolt against autocratic authority, the famous Decembrist uprising of December 1825, was the work of a small group of enlightened army officers who had been

converted to the liberalism of Western Europe. They had no popular following, and their revolt was easily suppressed. More significant was the intellectual ferment among the intelligentsia throughout the nineteenth century, and the efforts of some of them, known as the *Narodniks*, to improve the condition of the peasants by working among them. It was not until late in the nineteenth century that the slowly growing urban middle class, which provided the impetus for parliamentary democracy in the West, sought liberal reform, and then rather for the sake of trade and profit than for liberty as such. The bourgeoisie remained dependent on the aristocracy as their best customers and, especially after the unsuccessful revolution of 1905, looked to the Tsar to keep the industrial workers in their place. Not till about 1908 was there widespread criticism among the bourgeoisie of the economic burden of the Tsarist bureaucracy and, because of the poverty of the peasants, the smallness of the internal market. Even the liberal gentry who worked for improved health and education for the peasants, and supported parliamentary government, were not ready for drastic reforms like the distribution of the land. A wide gulf remained at all times between the intelligentsia and the illiterate masses of the peasantry. When, finally, a successful revolution did occur, those who sympathized with the liberal form of democracy which prevailed in the West were easily swept aside by the more ruthless supporters of Lenin.

### *Lack of Experience in Self-Government*

Perhaps the most serious consequence of the tradition of autocratic government was that the mass of the people were left without experience in governing themselves. Democratic government, at least in modern times, is difficult government. It is easy enough for one man to rule over others, but for the people themselves to rule requires special qualities of understanding, knowledge, experience, and confidence—qualities which are not innate but which can be developed only through use.

It was the tragedy of the Russian people that when the opportunity for self-government finally arrived they lacked the necessary preparation. As late as 1913, two-thirds of the people

were still illiterate, although literacy is a minimum requirement for the acquisition of information and the discussion of issues on a national scale. In addition, there was only the flimsiest precedent for popular participation in government. There had been an early tradition that the people, gathered in Moscow's Red Square, should endorse the choice of a new Tsar; but the people proved ready to cheer any Tsar who seized authority. (The story is told that Boris Godunov, in 1598, would not accept the crown until a great crowd knelt before him and moaned their prayer that he become Tsar—and that those who did not moan loudly enough were beaten.)

There were also times when it seemed possible that representative institutions of a sort might develop. Ivan the Terrible in 1550 had established a national assembly, the Zemsky Sobor. At first it could consider only those questions submitted to it; but later, during the "Time of Troubles" (1584-1613), a period of almost constant disorder and civil war, its power grew. It elected Boris Godunov Tsar, and in 1613 it chose the first Romanov as Tsar. Yet its powers and method of procedure were never clearly worked out, and its authority declined. No Sobors were held from 1654 to 1682, and after 1698 Peter the Great and his successors summoned no Sobors at all.

At times it also seemed possible that, as in England, the great nobles might take the first effective step in limiting the power of the ruler. The princes of Moscow had always had a Duma of Boyars (Council of Nobles), and during the Time of Troubles this institution also gained in authority. Peter dispensed with it, however, and although the older nobles gained some power in the Supreme Secret Council established by Catherine I (1725-1727), their authority was short-lived. When, in 1730, there was a dispute over the succession to the throne, the Supreme Secret Council offered the crown to Peter's niece, Anne (whose title was particularly weak and who might therefore be expected to be dependent upon them) on condition that she accept serious restrictions on the two traditional foundations of absolute authority, the purse and the sword. Once in power, however, Anne tore up the conditions in a dramatic scene, disbanded the Council, and restored autocratic power.

#### THE ZEMSTVOS

Another possible source of popular participation in government appeared in 1864 when there was a reorganization of the institutions of local government. The provincial and district councils (zemstvos) were elected popularly, although the voters were divided into three classes and the peasants chose their representatives indirectly. Control rested in the hands of the gentry, many of whom, however, were progressive in their political and social ideas. The powers of the zemstvos were never very clearly defined, and, particularly under Alexander III (1881-1894), their activities were severely restricted. In 1890 election by the peasantry was almost completely eliminated.

In spite of these handicaps, the zemstvos did notable work in the fields of health, education, and scientific agriculture. Through them, in addition, the liberal and professional classes received a certain amount of political experience. The All-Russian Union of Zemstvos organized the relief of the sick and wounded during World War I, and its president, Prince George E. Lvov, became the first head of the Provisional Government after the abdication of the Tsar in 1917. Yet for all their popularity among liberal and professional groups, the zemstvos commanded little support among the population in general.

#### THE DUMA

What appeared to be the most promising foundation for popular government was the Duma. Under the pressure of revolutionary agitation occasioned by the unsuccessful war against Japan, the Tsar in 1905 agreed to the establishment of a popular assembly, the Duma, which was chosen by universal suffrage. Several political parties participated in the elections, the most prominent of which were the Octobrists, a conservative party taking its name from the "October Manifesto" of 1905 in which the Tsar promised an elective Duma; the Constitutional Democrats or "Cadets," who represented the progressive middle class and desired a constitutional government patterned after those in Western Europe; the Socialist Revolutionaries, a radical peasant party; and the moderate Socialists



(Mensheviks). The Bolsheviks refused to take part in this first election.

The Duma was balanced in its authority by an upper chamber, the Council of State, one-half of whose members were nominated by the Tsar himself; there was accordingly no danger that legislation distasteful to the ruler would be passed. Moreover, when the first Duma, which was overwhelmingly liberal in composition, engaged in conflict with the Tsar's ministers, who were responsible only to the ruler, it was dissolved only ten weeks after its first meeting (1906). About two hundred members issued an appeal to the country for passive resistance; but the people remained unmoved, and those who signed the appeal were arrested, imprisoned, and, eventually, deprived of their civil rights.

The second Duma (1907) was somewhat more radical than the first, and like the first it was dissolved. Before new elections were held, however, the Tsar arbitrarily changed the entire basis of representation. Large areas of the country were completely disfranchised. Representation of the peasants was cut from 42 per cent to 22 per cent, while that of the big landowners rose from 32 per cent to 50 per cent. Fourteen per cent of the seats were set aside for representatives of the wealthier inhabitants of the cities, while only 12 per cent were assigned to the far more numerous middle classes. Thus the third Duma (1907-1912) was much more conservative, and much less representative, than its predecessors.

Even a conservative Duma, however, was more progressive than the Tsar and his ministers and, from 1908 on, the Duma began to win admiration, particularly among the middle classes, for its restrained but telling criticism of the inefficiency of the government. Foreign observers had high hopes that it would develop into a truly effective and powerful constitutional instrument. In fact there was a real chance on the eve of World War I that the Tsarist autocracy might be transformed more or less peacefully into a liberal capitalist structure. But there was too little time for such an evolution. In its absence, violent transformation was inevitable. The widespread yearning for change created a dynamic which could be turned all too easily to the purposes of revolutionary extremism.

## *No Peaceful Channel for Reform*

One of the most unfortunate consequences of the autocratic political tradition was the fact that it provided no peaceful path toward political reform. In other countries it is possible to maintain, as does the British Labor Party, that reforms should be won, not through violence, but through the use of freedom of speech and organization and the right to vote. But in Tsarist Russia freedom of speech, press, and organization were drastically curtailed; the Duma had too little time to consolidate its advances; and the method of voting was so distorted that elections lost much of their meaning. As a result, many people who would have preferred other methods became convinced that only violence would be effective. In the nineteenth and early twentieth centuries terrorists hoped that by assassinating government officials and, if possible, the Tsar himself, they could bring about change; and the Bolsheviks, while rejecting individual acts of terror, believed in violent revolution as the only effective means of winning power. The lesson of Russian history was that rulers won and maintained their power through the unashamed use of force; and the moral, as many reformers understood it, was to use the same weapons for ostensibly better ends. Once the reformers had accustomed themselves to the use of violence, however, it was inevitable that any government established by them would be tempted to continue the use of such methods.

## II. THE COMMUNIST REVOLUTION AND AFTER

### *The Seizure of Power*

Yet in 1917 few people guessed how easily Russia would submit to a Bolshevik revolution. To most observers the very fact that Russia was overwhelmingly agricultural, that her industrial development was still in its infancy, seemed to rule out the possibility. It was commonly noted in countries like Great Britain and Germany that the farm vote was a conservative vote, and the Marxists themselves had taught that the Communist revolution would occur, first of all, in a highly industrialized country.

## THE PEASANTRY

Such observations, however, represented a misunderstanding both of Russian agriculture and of Russian industry. Far from being a conservative force, the Russian peasantry was an unstable and even a revolutionary element. Much of the land in Russia still belonged to large landholders, and the peasantry coveted this property with all its will and imagination. Moreover, most of the property which belonged to the peasants themselves was administered by the peasant community (the *Mir*) in such a way as to prevent the growth of a sense of private ownership. From 1906 until his assassination in 1911 Prime Minister Stolypin actively encouraged the division of the lands of the *Mir* and the growth of private ownership in order to create a conservative and stable farming class. World War I intervened, however, before the policy could prove itself, and when the Bolshevik Revolution occurred in 1917 the peasantry was still an unstable element, moved by an enormous hunger for land.

## WORKERS AND THE MIDDLE CLASS

Similarly, the nature of Russia's industrial development was such as to encourage revolution. For although Russia was not a highly industrialized country in 1917, what industrialization there was had come in a forced and almost artificial way. It was largely financed by foreign capital, and instead of following the British and French pattern by which small-scale enterprise, directed and financed by a native middle class, prepared the way for heavy industry, industrialization in Russia was on a large scale from the very beginning and was dependent upon foreign investment and the sponsorship of the state. Ownership was largely absentee, and the native middle class was small and weak; but the workers were already living under conditions typical of an advanced stage of industrialization. Where, in 1895, only 10 per cent of the workers in Germany (one of the most advanced industrial countries) were employed in factories having 1,000 employees or more, more than one-third of Russia's industrial workers were employed in such plants. The result was a degree of organization and radicalism among workers, and a readiness to resort to strikes and direct

action, far more highly developed than in countries which might have seemed much closer to the pattern prescribed for a Marxist revolution.

The conspicuous weakness of the middle class, in contrast, meant that when the revolution occurred there was little to correspond to the large class of small shopkeepers, independent artisans, and property-owning farmers which made it possible for France to have a government which was neither reactionary nor radical.

## MILITARY DISASTER

In so unbalanced a situation Russia's disastrous participation in World War I provided the final impetus needed to produce revolution. In the early years of the war, it is true, Russian soldiers fought with conspicuous bravery. Yet their weapons were inferior and inadequate, the system of supply was marked by incredible corruption and inefficiency, and repeated military disaster destroyed the hope of ultimate victory. Weariness and disillusionment resulted in a powerful desire for peace at almost any price.

## THE TSARDOM

In addition to being confronted by such impersonal forces as war and the peculiar nature of Russian agriculture and industry, the elements opposed to revolution suffered a special handicap in the personality of their leaders. The last Tsar and Tsarina combined all the disadvantages of weakness, stubbornness, and stupidity. They had fallen under the influence of a corrupt and unscrupulous "holy man," Rasputin, whom they believed to have been sent by God for their guidance and whom they credited with miracle-working powers. As time went on, no ministry could survive without his approval, and even the most conservative circles and those most loyal to Tsarist institutions were disgusted and alienated. The Tsar and Tsarina were left without the firm support of any class in society, and when Rasputin was finally assassinated, too late to save the monarchy, members of the Tsar's own family participated in the plot.

Thus when strikes broke out in March 1917 because of the lack of bread and the high cost of living, the Tsarist government was unable to cope with them. The Tsar abdicated, and those who would have defended the tsardom were left without a monarch around whom they could

rally. Legal authority passed to a provisional government appointed by the Duma, but the moderate and well-meaning men who comprised the new government were not great popular leaders: they might have been highly successful statesmen in a peaceful parliamentary democracy, but they were not well-equipped to cope with a revolutionary crisis.

There were other reasons why the Provisional Government never gained wide popular support. Though its leader, Kerensky, was a socialist, the Provisional Government could not free itself from the old official class and administrative machine. Partly for this reason it refused to legalize land seizures even though land reform was the most pressing need. Thus it alienated the peasants. Kerensky also refused to co-operate with even the pro-liberal elements in the army, thus rejecting another possible source of support. At the same time the Provisional Government was under heavy pressure by the Allies to keep Russia in the war when everyone in the country was clamoring for peace.

With the success of the March Revolution, councils of workers' and soldiers' deputies (the "Soviets") had sprung up in imitation of similar organizations during the 1905 revolution; and their existence proved a serious restriction upon the authority of the new government, which had no reliable army or police force and which had little more than its own eloquence with which to hold the Petrograd crowds in check.

#### THE ROLE OF LENIN

It was Lenin's great achievement that he saw the opportunity provided by such a situation. Contrary to the popular legend, it was not the Bolsheviks who led in the overthrow of the Tsar. The Russian people themselves, without guidance or leadership had made the revolution, and the leaders of the Bolsheviks, like Lenin himself, were in exile or in prison at the time it took place. Most of the Bolsheviks were contented with the fact that the tsardom had been overthrown and a democratic republic established. But Lenin, whom the Germans returned, with other Bolsheviks, in a sealed train in April 1917 in an effort to weaken Russian resistance in the war, saw that it would be possible to push the revolution further: to overthrow the "bourgeois" democratic republic and to estab-

lish a dictatorship of the proletariat. Other Bolshevik leaders (including, at first, Stalin himself) had been ready to co-operate with the Provisional Government. Lenin, however, was clever enough to see that no group possessed real power; as Maynard says, "it was in the street," and Lenin seized upon it.

The most powerful political parties at this time were those of the middle-class liberals (the Constitutional Democrats or Cadets), the peasants (the Socialist Revolutionaries), and the moderate Socialists (the Mensheviks). The Bolsheviks themselves had only a few thousand members, and only a Lenin could have believed them capable of dominating a great nation. But Lenin saw that if the Bolsheviks could win the leadership of the Soviets from the Mensheviks and the Socialist Revolutionaries, there would be little difficulty in overthrowing the Provisional Government and making the Soviets the real government. The way to win the leadership of the Soviets was to offer the people what they wanted. During the late spring and summer of 1917, therefore, under the slogans of "Peace, Land, and Bread" and "All Power to the Soviets," the Bolsheviks prepared for the seizure of power.

Had the Bolsheviks been its only opponents, the Provisional Government might have been able to resist, but an attempt by Rightists, under the leadership of General Kornilov, to overthrow the government in the summer of 1917 upset the balance. The Bolsheviks gained credit for their part in defeating the rebellion, and when they themselves were ready to strike, the Right was too feeble to reinforce the parties of the center. The revolution which took place in November triumphed with the same ease as the earlier revolution.

#### After the Revolution

The Bolsheviks had gained power by seizing control of the Soviets, themselves revolutionary bodies, but almost at once, they faced the test of a nation-wide election. The Provisional Government had arranged for the election of a Constituent Assembly on a fairly liberal franchise, and the Bolsheviks themselves had endorsed too often the calling of such a body to prevent it from coming into existence. When the election

returns were counted, however, the Bolsheviks had received only 25 per cent of the votes while the more democratic parties had 62 per cent. In the "supplementary revolution" of January 5, 1918, the Constituent Assembly, the most truly popular body in the history of Russia, was dissolved at its first meeting in what Lenin declared was a "frank and complete liquidation of formal democracy in the name of the revolutionary dictatorship." With typical emphasis he added, "And now we have carried out the will of the people—the will that says all power to the Soviets" (p. 483).

#### THE CIVIL WAR AND WAR COMMUNISM (1917-1921)

More effective resistance to the Bolsheviks than that of the Constituent Assembly arose during the succeeding months. Every other party within Russia was soon engaged in active struggle against the Communist regime; from August 1918 on, terror by the Cheka, the Bolshevik secret police, began on a mass scale. For a while, Social Revolutionary governments, like that under Chernov in the lower Volga valley, consolidated popular support through liberal reform policies. But they had nothing in common with the reactionary counterrevolutionary or "White" armies which by restoring property to the landlords in the areas they controlled antagonized the mass of the peasants who might otherwise have been their allies. These armies were supported, though ineffectually, by the British, French, Japanese, and American governments in the hope of re-establishing a second front against Germany (the Bolsheviks had made peace in the spring of 1918 by the notorious treaty of Brest-Litovsk) and of preventing stores of munitions from falling into German hands. But the anti-Bolshevik forces were themselves disunited ideologically, politically, and militarily. This fact rather than their own strength was the salvation of the Bolsheviks, who were able to attack them one by one. By 1921, the victory of the Communists against counterrevolutionary forces was complete.

During the period of the Civil War extreme economic policies had been put into effect. Means of production, land, banks, and industrial plants all were nationalized, private trade was forbidden, and farmers' produce above im-

mediate needs was confiscated. The result was economic chaos. Farmers hid their grain or refrained from planting. Factory production fell disastrously. And the government had increasingly to resort to forcible measures, both to combat its political opponents and to mobilize labor and collect grain.

Hostility to the rigid controls and Party domination led, however, to peasant revolts in 1920 followed the next year by the Kronstadt rebellion, an openly organized political opposition demanding "soviets without Communists" and "free artisan production with individual labor." The last significant outbreak of its kind under the Soviet regime, the Kronstadt rebellion, together with the great famine of 1921, gave notice that some changes in policy must be made.

#### THE NEW ECONOMIC POLICY (1921-1927)

Lenin, who was always ready to adapt himself to the inevitable—and to profit by it—to the amazement of many of his collaborators (and over the strong opposition of some of them) introduced the famous NEP (New Economic Policy). The free market was restored for both the peasant and the worker. After paying a proportional tax, farmers were free to dispose of their harvest as they desired. Privately owned shops reopened, and a new class of individual entrepreneurs (popularly called *Nepmen*) made their appearance. Many observers hailed the change as a proof of the failure of Communism and anticipated a complete return to the capitalist system. But the retreat, however spectacular, was only a limited one. Heavy industry and foreign trade remained nationalized, and the government worked actively to consolidate its position in other fields as it gave ground in the economic. It was at the very time that the NEP was being introduced that the church underwent its first heavy persecution (p. 439).

Shortly after the introduction of the NEP, Lenin suffered the first of a series of strokes. For many months he was almost totally incapacitated, and in January 1924 he died. The economic breathing-space which he had introduced, however, fulfilled its mission. Agricultural production returned to its prewar level, and industrial production rose sharply—although the Soviet standard of living continued to be far behind that of the Western European

countries. In addition, to the distress of the Bolshevik leaders, many peasants expanded their property holdings and developed the attitudes of middle-class farmers, than which nothing could be more hostile to Communist principles.

The years following Lenin's death were also marked by a spectacular struggle for power in which the chief contenders were Joseph Stalin (who, as Secretary-General of the Communist Party, was in a strategic position to dominate the Party's machinery and personnel but against whom Lenin cautioned the Party in his political testament) and Leon Trotsky, after Lenin the most famous of the revolutionary leaders.

No brief description can do justice to the involved and shifting issues and alignments of the years of struggle. The three chief issues were, in foreign policy, the Trotskyite insistence on the active promotion of world revolution in contrast to the Stalinist desire to build "socialism in one country"; in domestic policy, the Trotskyite demand that there must be a new drive toward industrialization according to a comprehensive plan; and in Party affairs, Trotsky's demand for "intra-party democracy," that is, discussion of decisions, in contrast to Stalin's insistence on unquestioning obedience to the Party line. In effect, Trotsky wanted to push forward the socialist revolution at home and abroad, while Stalin temporarily supported concentration on the home situation within the framework of Lenin's NEP. Neither side was completely consistent, however, and the policies of both groups were marked by political opportunism in which former enemies might ally themselves against former allies and in which allies, once the enemy was defeated, divided against themselves. Once Stalin had triumphed over Trotsky and his current allies (in the Politburo, and subsequently in the Party Congresses of 1924, 1925, and 1927), he turned against the NEP with even greater vigor than the Trotskyites had demanded; and once the "Left Opposition" (Trotsky, Zinoviev, and Kamenev) had been driven from power, Stalin proceeded to eliminate his former allies (Bukharin, Rykov, and Tomsy—the "Right Opposition") as well. That the divergence in foreign policy was over tactics rather than objectives was proved by Stalin's support of revolutionary Communism in China in 1927. Thus fundamentally the

struggle had been over timing but, above all, for power.

#### THE RENEWAL OF THE SOCIALIST OFFENSIVE (1928-1936)

Stalin's consolidation of power was marked by a new drive for the realization of Socialism. On the industrial front the first of the Five-Year Plans was introduced, calling for tremendous increases in the capacity of heavy industry and in the production of coal, electric power, and other resources. On the agricultural front there occurred a forced liquidation of the farms. The more prosperous peasants were deprived of their holdings, and the "middle" and poorer peasants were obliged to unite in collective farms. The widespread resistance to this policy, although resulting in a temporary relaxation of pressure, was effectively and brutally suppressed and the overwhelming majority of the farms were collectivized.

#### THE PERIOD OF THE NEW CONSTITUTION (1936-1941)

By 1936 the success of the new policy was great enough for Stalin to proclaim that the Socialist stage (p. 428) in the path toward Communism had been reached. Hostile classes had been destroyed, productivity had been increased, and a new and apparently democratic constitution was introduced. Somewhat ironically, however, the introduction of this constitution occurred in the midst of the great purges which followed the assassination of Sergei Kirov (1888-1934), one of the leading members of the Politburo; and the inauguration of democracy in form went hand in hand with the terrorization of opposition groups.

This is a period which is still the subject of much debate. To some observers it marked a "Great Retreat" from Communist principles, in which the peasant was again allowed a limited amount of private property, in which striking differences in income gave plausibility to charges that a new "upper class" was arising, in which family life and a high birthrate were officially encouraged, divorce was discouraged, education returned to traditional channels, religion met with more toleration, and national patriotism (at least among Great Russians) was encouraged. But to others it seemed clear that

the essential characteristics of the regime were unchanged. Property in the instruments of production still was nationalized or collectivized; no political challenge to Bolshevik principles was permitted; nationalist movements among the minorities were suppressed as ruthlessly as ever; the secret police and censorship remained as all-pervading as in the early days of the revolution; and the Communist Party showed no greater willingness to share power with other groups than in the bitterest days of the Civil War.

#### "THE GREAT PATRIOTIC WAR" (1941-1945)

The German attack upon the U.S.S.R. in the summer of 1941 interrupted the third Five-Year Plan and turned all of the country's efforts toward the meeting of backbreaking military demands. Although the Soviet government had made a pact of friendship with Hitler in August 1939, and although (in order to avoid angering the Germans or providing a pretext for attack) all of the instruments of public opinion had been turned from attacks on Nazism to the promise of peace and friendship, the government had also taken the precaution of removing armament factories from the vulnerable western area to the region beyond the Volga and the Urals, while new factories of military importance were rushed to completion.

Despite such precautions the Germans were successful for a time in occupying a tremendous territory (inhabited by 88,000,000 people), and before they finally were driven from the country they wrought enormous destruction. Seven million people lost their lives; another twenty-five million were left homeless. Some of the U.S.S.R.'s greatest cities and thousands of its villages were devastated. Industry, transportation, and agriculture suffered alike.

So desperate a struggle inevitably introduced changes in economic and political policy. Workers had to work longer hours and were "frozen" to their jobs. Penalties for lateness and absenteeism were exceedingly severe. Every effort was concentrated on military production, while the country as a whole suffered from the lack of clothing and food. During this period elections and ordinary legislative activity were suspended. No Congresses or Conferences of the Communist Party were held. However, hundreds of thou-

sands of new members (including large numbers of war heroes and "heroes of production") were admitted to party membership, both to increase its strength and to heighten its prestige. As already noted, the revival of national feeling now reached new heights, while the church won greater toleration and took an active part in patriotic appeals.

#### AFTER WORLD WAR II

The story of the postwar period is the story of Soviet government today. Some of its outlines already are quite clear. In 1946 there was launched a new Five-Year Plan having as its official aim "to rehabilitate the devastated regions of the country, to recover the prewar level of industry and agriculture, and then considerably to surpass that level." Special attention was still devoted to the development of heavy industry, but the consumer was promised an early end to rationing (a promise which was fulfilled in December 1947), an increase in the production of goods for consumption, and a lowering of prices. The length of the work day was cut, but other restrictions on labor remained in force. New elections were held early in 1946, but there were no meetings of the Congress of the Communist Party. In the cultural field, as noted above, the control of thought was more rigid than ever.

For a fuller understanding of the Soviet government, however, it is necessary to turn to a more detailed study of institutions and policies as they exist today.

### III. THE SOVIET CONSTITUTION

#### *General Structure of Government*

Within the Soviet Union the Constitution of 1936 was hailed as the most democratic the world had ever seen. Where the earlier constitution had deprived many persons of the right to vote, had weighted the vote in favor of the urban workers, had provided for the indirect election of higher representative bodies, and had made no provision for secrecy of the ballot, the suffrage now was proclaimed to be universal, direct, equal, and secret.

In form the new government looks very

# STRUCTURE OF THE SOVIET NATIONAL GOVERNMENT according to the Constitution of 1936

## EXECUTIVE

### COUNCIL OF MINISTERS

Responsible and accountable to the Supreme Soviet.  
Co-ordinates and directs the work of the Ministries and other administrative bodies.  
Ensures execution of the national economic plan and the state budget.  
Ensures the maintenance of public order and the protection of the interests of the state and the rights of its citizens.  
Directs the conduct of foreign policy.  
Directs the general organization of the armed forces.

#### Ministers

Direct state administration within their jurisdiction.  
Issue orders and instructions in pursuance of laws in operation and decisions and orders of the Council of Ministers.

#### All-Union Ministers

Direct the branches of state administration entrusted to them throughout the territory of the U.S.S.R.

#### Union-Republican Ministers

Direct branches of state administration entrusted to them through corresponding ministries of Union Republics.

## LEGISLATIVE

### SUPREME SOVIET

Elected for a four-year term.  
Exercises exclusive legislative power.  
Elects the Presidium.  
Appoints the Council of Ministers and holds it responsible.  
Amends the Constitution by a two-thirds vote.

#### COUNCIL OF NATIONALITIES

Elected by citizens of the U.S.S.R. voting by federal subdivisions.

#### SOVIET OF THE UNION

Elected by citizens of the U.S.S.R. on the basis of one deputy for every 300,000 inhabitants.

### PRESIDIUM

Convenes sessions of the Supreme Soviet.  
Issues decrees.  
Interprets laws.  
Disolves the Supreme Soviet in case of persistent disagreement between the two chambers.  
In intervals between sessions of the Supreme Soviet, subject to subsequent confirmation, releases and appoints Ministers of the U.S.S.R. on the recommendation of the Chairman of the Council of Ministers.  
In intervals between sessions of the Supreme Soviet, proclaims a state of war in case of attack or to carry out treaty obligations.  
Annuls decisions and orders of the Council of Ministers which do not conform to law.  
Appoints and removes high military and diplomatic officials.  
Ratifies and denounces treaties.  
Orders mobilization and proclaims martial law.

## JUDICIAL

### SUPREME COURT

Elected by the Supreme Soviet for a five-year term.  
Supervises the judicial activities of all judicial organs of the U.S.S.R. and the Union Republics.

### PROCURATOR-GENERAL (Public Prosecutor)

Appointed by the Supreme Soviet for a seven-year term.  
Ensures the strict observance of the law by all ministries, officials, and citizens of the U.S.S.R.



much like that of any Western European democracy. There is a national legislature, the Supreme Soviet, which is made up of two chambers: the Soviet of the Union (which contains one deputy for every 300,000 of the population) and the Soviet of Nationalities, in which the various Union Republics, autonomous republics, autonomous regions, and national areas receive representation. In the intervals between meetings of the Supreme Soviet, a smaller group of its members known as the Presidium performs many of its duties.

Executive and administrative power is vested in a Council of Ministers (until 1946 this body was known as the Council of People's Commissars) which corresponds to the British Cabinet or the French Council of Ministers and which is responsible to the Supreme Soviet or, in the intervals between meetings, to the Presidium.<sup>3</sup>

### *The Federal System*

One of the consequences of the multinational character of the Soviet Union is the organization of the country as a federal union of sixteen republics, which correspond roughly to American states: the Russian Soviet Federative Socialist Republic (which itself contains more than one hundred nationalities), the Ukrainian, the Byelorussian (or White Russian), the Azerbaijan, the Georgian, the Armenian, the Turkmen, the Uzbek, the Tadjik, the Kazakh, the Kirghiz, the Karelo-Finnish, the Moldavian, the Lithuanian, the Latvian, and the Estonian Soviet Socialist Republics. It must be realized, however, that the Soviet leaders have never regarded federalism as more than a temporary expedient. Lenin himself characterized it as a step towards "the most solid unification of the different nationalities into a single, democratic, centralized Soviet State."<sup>4</sup>

In several respects the present character of the Soviet federal system differs markedly from the American, both in form and in fact.

1. It is much more complex. Several of the Union Republics which make up the U.S.S.R. are themselves subdivided into autonomous republics, autonomous regions, and national areas,

all of which are represented in the Soviet of Nationalities (which is roughly the equivalent of the American Senate) at the rate of twenty-five deputies for each Union Republic, eleven for each autonomous republic, five for each autonomous region, and one for each national area.

2. One of the Union Republics is more important than all of the others put together. The most populous American state, New York, has only 10 per cent of the national population; and the largest state, Texas, has less than 10 per cent of the national area. But the Russian Soviet Federated Socialist Republic (R.S.F.S.R.) has more than half the total population and almost three-quarters of the area. It possesses territory at both extremes of the Soviet Union, on the Baltic Sea and the Pacific Ocean. Official publicity of the Soviet government frankly emphasizes Russia's leading position, and the new national anthem of the U.S.S.R. speaks of the "Unbreakable Union of freeborn Republics Great Russia has welded forever to stand." Some significance may also be attributed to the fact that when the northern part of East Prussia was annexed by the Soviet Union at the end of World War II, it was added, not to the republics which bordered upon it but to the R.S.F.S.R.

3. The Union Republics have certain powers, at least in form, which are much greater than those of American states. In particular, since 1944, they have had the constitutional right to organize their own armies (though in fact they have not done so) and to conduct their own foreign policy, carrying on direct relations with foreign states, exchanging diplomatic and consular representatives, and making treaties. These powers were the necessary basis for the Soviet Union's demand for separate United Nations' seats for the Ukraine and Byelorussia. However, the fact that each of the Union Republics is controlled by the Communist Party, which, far from being federally organized, is highly centralized and disciplined, deprives the change of any internal significance. Moreover, apart from United Nations' membership, they have little meaning externally since, for example, Great Britain's attempt to establish direct diplomatic relations with the Ukraine was immediately rebuffed.

<sup>3</sup> All of these institutions are discussed at length below, pp. 483-95.

<sup>4</sup> Lenin, *Collected Works*, XXII, 415-16.

4. In contrast to the United States where, since the Civil War, no state has claimed the right to secede, the Union Republics, under Article 17 of the Soviet Constitution, are guaranteed the right to withdraw from the Union. There is, however, little possibility for any Union Republic to take advantage of this right. Quite apart from the controlling position of the centralized Communist Party, there are certain theoretical obstacles. Any movement for secession, it is insisted, must represent the workers rather than the bourgeoisie, and, as already noted, any movement which encourages national consciousness among the minority peoples is likely to be labeled "bourgeois nationalism." In addition, both Lenin and Stalin have declared that the security of the Soviet Union as a whole must not be sacrificed to the principle of secession. Stalin, for example, has quoted with approval Lenin's statement that "the various demands of democracy, and among others the right of self-determination, have no absolute value. . . . In concrete instances the interests of the part may conflict with the interests of the whole. If that is so, we must repudiate the part."

5. If, in some respects, as in secession and foreign policy, Soviet Republics have more formal power than their American counterpart, in practice they have far less. In the first place, the economy of the U.S.S.R. is a planned economy, and the plans are centrally made. Not surprisingly, in view of this, the Union Republics have no guaranteed autonomy in even local matters. Originally they had at least theoretical jurisdiction in agriculture, health, justice, internal affairs and social security; today it extends only to education (excluding higher education) and social security. In theory, the Council of Nationalities, in which the federal areas have special representation, shares in approving all plans, but the central government—not the governments of the republics—makes the plans, and the republics must accept them. In addition, the national government has a monopoly of financial power. Article 14 of the Constitution assigns to it "Approval of the single state budget of the U.S.S.R., as well as of the taxes and revenues which go to the All-Union, Republican, and local budgets." Where the American states

have control over their own revenues and expenditures, the finances of the Soviet Republics are under the complete control of the central government. And since power over a man's purse traditionally is power over his will, the autonomy of the federal areas is, in practice, severely limited.

In this connection the comparative expenditures of governments on different levels in the two countries reveals something of their relative importance. In 1940 the United States national government spent about half of the total amount spent by all levels of government, state governments about 20 per cent, and local governments about 30 per cent. In the U.S.S.R. the national government spent 80 per cent of the money, the Union Republics only 6 per cent, and local governments 14 per cent.

6. From time to time in the U.S.S.R. various categories of areas have been promoted or demoted in status; and at times it has been suggested that nationalities, as they developed, might pass upward from the status of autonomous region to that of autonomous republic and finally to that of Union Republic, just as, in the past, American territories have become states. At the time of the promulgation of the present Constitution, however, Stalin laid down fairly rigorous requirements for status as a Union Republic. A Union Republic must be located on the border of the U.S.S.R. (ostensibly so that it will be able to secede); the nationality desiring a separate Union Republic must form a compact majority within that area; and there must be a population of at least one million (again, ostensibly so that the Union Republic could maintain an independent existence if it chose to secede). Having placed so much emphasis on secession, it is instructive to note that Stalin ended by saying, "Of course, none of our republics would actually raise the question of seceding from the U.S.S.R."<sup>5</sup>

The fact is that Soviet federalism is a convenient myth which makes it possible for the Communist leaders to combine two contradictory but desirable ends: the form of autonomy with the facts of complete centralization. It represents a temporary yielding to the circumstance of nationality sentiment without in any way

<sup>5</sup> Stalin, *Leninism*, p. 400.

weakening the strength of the unified Soviet state.

### *The Bill of Rights*<sup>\*</sup>

No section of the Soviet Constitution has attracted more attention than its Bill of Rights, and no section is more illustrative of the difference between Soviet and American concepts of freedom and democracy.

The first of these differences is perhaps more a matter of emphasis than of direct conflict. In contrast to the Bill of Rights of the American Constitution and the French Declaration of the Rights of Man and of the Citizen, the list of Soviet guarantees gives first place to economic and social rather than to political rights. It begins by declaring (Article 118): "Citizens of the U.S.S.R. have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality." Similar provisions follow. "Citizens of the U.S.S.R. have the right to rest and leisure" (Article 119). "Citizens of the U.S.S.R. have the right to maintenance in old age and also in case of sickness or loss of capacity to work" (Article 120). "Citizens of the U.S.S.R. have the right to education" (Article 121).

After these articles there are several which are more closely related to provisions of the American Constitution: a guarantee of equal rights to women, not only in political life but in "economic, state, cultural," and "social" (Article 122), and of equal rights of citizens of the U.S.S.R. "irrespective of their nationality or race, in all spheres of economic, state, cultural, social, and political life" (Article 123). It is only then that the Constitution takes up the subjects which are the core of traditional bills of rights. Article 124 guarantees "freedom of religious worship and freedom of anti-religious propaganda." Article 125 guarantees freedom of speech, press, assembly, and "street processions and demonstrations." The rights in this article are guaranteed, however, "in conformity with the interests of the working people, and in order to strengthen the socialist system." Thus any exercise of these rights which was considered

to be contrary to these interests or to this system would have no constitutional protection. A similar formula is used in introducing, in Article 126, the guarantee of the "right to unite in public organizations," while the article also recognizes the special position of the Communist Party as "the leading core of all organizations of the working people, both public and state." Stalin further explained, at the time the Constitution was adopted, that there would be no room for the organization of rival political parties. In Articles 127 and 128 citizens are guaranteed "inviolability of person" and "the inviolability of the homes of citizens and privacy of correspondence." None of these rights, of course, are protected in any situation in which the interest of the state is concerned.

It is significant of the Soviet attitude that the list of rights is accompanied by a list of duties: "to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labor discipline, honestly to perform public duties, and to respect the rules of socialist intercourse" (Article 130); "to safeguard and fortify public, socialist property" (Article 131) since "persons committing offenses against public, socialist property are enemies of the people"; and "to defend the country" (Article 133).

Thus the order in which the guarantees are listed assumes that to the ordinary person the most important thing is to have a decent job, education, and security in case of old age or ill health. Freedom of speech and press are of lesser importance. In contrast, the Western democracies, while paying increasing attention to "freedom from want" and "freedom from fear," consider political liberties to be the essence of freedom. Jobs and old age pensions may be important to the enjoyment of freedom, but they are not identical with it. Many Western democrats (particularly in the British Labor Party or the French Socialist Party) would agree that freedom of thought and speech are not very important to a man who is starving, but they would add that a man may be very well fed and still be a slave. A high standard of living is important, but they would hesitate to accept statistics of industrial production as relevant proof of the existence of freedom.

A second difference between Communist and

<sup>\*</sup> For further consideration of the Bill of Rights, see below, pp. 538-39.

Western conceptions of freedom and democracy is more fundamental. Communists look upon democratic constitutions in the West as little more than a screen for political control by the exploiting classes. Western democrats believe, in contrast, that the frank limitation on the purposes for which freedom may be used in the Soviet Union is incompatible with the spirit of freedom. Each, therefore, tends to regard the other's use of the word "freedom" as basically hypocritical.

Lenin, even before the founding of the Soviet Union, had maintained that democracy in capitalist society "is always bound by the narrow framework of capitalist exploitation, and consequently always remains, in reality, a democracy for the minority, only for the possessing classes, only for the rich. Freedom in capitalist society always remains about the same as it was in the ancient Greek republics: freedom for the slave-owners."<sup>7</sup> The majority of the people, he insisted, are barred from active participation in political life. Suffrage qualifications and the expense of publishing papers and hiring halls keep them from enjoying the rights so solemnly guaranteed in their constitutions. "The dictatorship of the proletariat," he wrote, "the period of transition to Communism, will, for the first time, create democracy for the people, for the majority, in addition to the necessary suppression of the minority—the exploiters."<sup>8</sup> The important thing, for Lenin, was that a share in running the government and access to meeting halls and printing presses should belong to the masses of the people, but not to those who disagreed with or misinterpreted their "interests" as understood by the Communist Party's leaders. Capitalist democracy was the rule of the few rich over the many poor; Communist democracy was the rule of the majority over the exploiters. The latter, therefore, was more democratic. But there was no acceptance of the traditional belief in equal rights for everyone regardless of class.

Stalin, in his writings, has echoed the Leninist attitude. Thus he wrote in 1924: "Under the dictatorship of the proletariat, democracy is *proletarian* democracy, the democracy of the exploited majority, based upon a restriction of the

rights of the exploiting minority and directed against that minority."<sup>9</sup> The important thing is not the maintenance of democratic forms but the promotion of the interests of the masses.

Neither "majority rule" nor "minority rights," therefore, can be allowed to interfere with what the Communists know to be the interests of the working class, whether or not the majority has the same conception of those interests. Thus, when elections were held in November 1917 (following the Bolshevik Revolution) for a Constituent Assembly (p. 455), and the Bolsheviks succeeded in winning only a minority of the seats, Lenin disbanded the Assembly by force and explained: "We shall tell the people that their interests are superior to the interests of any democratic institution. We must not return to the old prejudices, which subordinate the interests of the people to formal democracy."<sup>10</sup> Even before the October Revolution, he demanded the suppression of all "capitalist" newspapers; and once the Communists seized power, it became clear that freedom meant freedom to do what the Communists thought good. Democracy was freedom to promote the interests of the people (What kind of freedom is it, the Communist asks, which means freedom to harm the people?), and the Communists claimed to know infallibly, through the scientific application of Marxist principles, what these interests were.

In contrast, the Western belief in freedom of speech and organization is based upon the assumption that no one is infallible, that there can be honest disagreement among reasonable men as to the best way of promoting the public welfare, and that through the process of discussion, compromise, mutual concessions, and the adjustment of conflicting opinions, solutions will be reached which are closer to the general interest than those which any individual or party would dictate. Thus, when Stalin writes that "not a single important decision is arrived at by the mass organizations of the proletariat without directions from the Party," the statement seems to the Westerner a direct violation of the most essential assumption of democracy. But to the Communist, who is certain of his scientific

<sup>7</sup> Lenin, *op. cit.*, Vol. VII, p. 79.

<sup>8</sup> *Ibid.*, p. 82.

<sup>9</sup> Joseph Stalin, *Leninism*, Vol. I, p. 116.

<sup>10</sup> Lenin, *op. cit.*, Vol. VI, p. 439.

possession of the truth, such a conclusion is both logical and obvious.

### *The Soviet Concept of Constitutionalism*

There is one other great difference between the Soviet Constitution and those of the Western countries. In the United States, Great Britain, and France, whether the principles of the constitution are written or unwritten, it is assumed that they stand above any ruler or government and must be obeyed by them. Formal guarantees of the supremacy of the constitution vary from country to country; but the most fundamental protection of the constitution, particularly in Great Britain and the United States, is the fact that people have been brought up to revere it and that any tampering with it would arouse the greatest public indignation.

The Russian people, it will be remembered, lack any corresponding tradition of respect for the Constitution and of restraint upon government; therefore, a departure from the Constitution's principles or from its specific provisions does not entail the same consequences. According to official statements, the Soviet Constitution, like other constitutions, establishes fundamental principles and procedures which any government is obliged to obey. There is, in addition, a provision for amendment by a two-thirds vote of each chamber of the Supreme Soviet. But since no vote in the Supreme Soviet is ever less than unanimous, and since the highly disciplined Communist Party always is in control, there is never any doubt that an amendment desired by the country's political leaders will be adopted. This fact may explain in part why the government has not always been scrupulous in following the amendment procedure, since the procedure is itself a mere formality.

In any case, there are many minor instances in which the Constitution has been disregarded. Each of the ministries of the U.S.S.R. is listed in the Constitution, as are all the principal subdivisions of the government (Union Republics, autonomous republics, and so forth). Yet new ministries are constantly being added without

waiting for formal amendment of the Constitution, and changes in the status of lesser governments have been made in similar fashion. Thus the Constitution is subject to a constant process of informal amendment, and the Westerner is surprised to note that such changes frequently are made by decree and only much later is the Constitution amended to bring it into conformity with the existing situation.

Observers have attempted to draw a distinction between amendments which involve less important aspects of the Constitution and those affecting fundamental principles, the assumption being that the formal process of amendment would be followed in the latter case. But this has not always been so. The clearest departure from the terms of the Constitution, in this sense, occurred just prior to the election of 1946 when the Soviet government, simply acting by decree, raised the age at which men and women could be elected to the Supreme Soviet from 18 (as provided in the Constitution) to 23. To an American this would be a constitutionally incomprehensible situation, and the Supreme Court undoubtedly would hold such a ruling unconstitutional. But in the U.S.S.R. there was no challenge, and the newly elected Supreme Soviet subsequently amended the Constitution to bring it into conformity with the rule by which it had already been elected. A more fundamental departure from the Constitution concerns the principle established in Article 32, which provides that "the legislative power of the U.S.S.R. is exercised exclusively by the Supreme Soviet of the U.S.S.R." Stalin himself explicitly rejected proposals that the Presidium of the Supreme Soviet be allowed to share this power. Yet actually, most legislation today takes the form of decrees of the Presidium or of orders of the Council of Ministers acting with the Central Committee of the Communist Party.

In short, there is within the Soviet Union none of that subordination of government to law which responds to one of the deepest convictions of the Anglo-American peoples.

## CHAPTER 3

# The Communist Party

### I. THE PARTY IN THE PREREVOLUTIONARY PERIOD

Judged by the standards of British and French party systems, the party structure of the Soviet Union is novel and perplexing. To understand it the foreigner must rid himself of almost every preconception about the purpose, the form, and even the spirit of party activity; it would, in fact, be far better if some word other than "party" could be used to designate the Communist organization.

The differences between the Communist Party and Western parties are in part the result of historical circumstance and in part the response to a different kind of function. The immediate purpose of parties in Great Britain, France, and the United States is to win elections. But before 1917 the primary purpose of the Communist Party (or, as it was then known, the Bolshevik wing of the Russian Social Democratic Labor Party) was to make a revolution. The Tsarist regime had no intention of permitting its political opponents to win control of the government peacefully or to engage in the type of opposition and criticism which is characteristic of democratic countries; and even if the Tsarist government had been more tolerant, the Communist Party would undoubtedly have refused to become a purely constitutional party. Lenin and his supporters had nothing but contempt for "reformist" parties in the West which, like the British Labor Party, hoped to win power and to institute changes through peaceful, democratic, parliamentary methods. If far-reaching social and economic changes were to be achieved, the instrument would be not the ballot but class struggle.

Power, Lenin believed, could be won only by force. Once the revolution had triumphed, it would be easy enough to persuade a majority of the people to support it. But first of all there had to be a revolution, and the party had to recruit, not men who would vote for it, but men who would revolt for it. "Give us an organization of revolutionaries," Lenin declared, "and we shall overturn the whole of Russia."

The task of overturning Russia was one which called for a special kind of organization and activity. The party, first of all, had to be a party of professional revolutionaries. No organization of amateurs could make a revolution. Only those men could be successful revolutionaries who were ready to devote to their work not their "spare evenings" but "the whole of their lives." There was no place for the diletante or for those who were halfhearted, squeamish, ridden by doubt, or prone to independence or insubordination. Such men might make a successful debating society, but a revolution required tougher qualities. The people who joined the movement knew that they risked their liberty if not their lives. They could not think in terms of moderation or compromise, of seeing the other person's point of view, or of deferring to individual tastes and peculiarities. An organization which presumed to overturn the Russian state had to have a discipline of an almost military character. It was not for the rank and file to judge its orders or to question party strategy. What Lenin demanded was a hardened, specialized, experienced core of men of personal devotion, undeviating discipline, and professional skill. And this, in the course of years, was precisely the sort of organization he built.



### *Smallness of the Party*

Men of the quality desired by Lenin are rare, and an organization limited to them had necessarily to be small. Smallness, however, was not a disadvantage. It was, on the contrary, essential to successful conspiracy. When critics of Lenin urged that the party be "accessible to the masses," Lenin pointed out that such a party would also be accessible to the police. The party, he said, should not cut itself off from the masses. But instead of having the masses join the party, the party's members should join the organizations to which the masses already belonged. Within trade unions, student associations, and other large organizations the Bolshevik members would form a solid core or fraction (see p. 470), constantly working to win positions of leadership in the organizations and to guide their policy in accordance with the Bolshevik program. In that way the party could hope to win mass support for its policies without admitting the masses to membership in the policy-making organization. At least for the time being the Bolsheviks were to be the "vanguard of the proletariat," a self-chosen group of leaders guiding and educating the masses of the people in accordance with Bolshevik doctrine.

### *Absence of Internal Democracy*

The leadership principle applied not only to the party's relations with other organizations but to the inner working of the party itself. A revolutionary organization, Lenin frankly said, could not be democratic. It could not run its affairs publicly, debating policy, electing officers, and consulting the rank and file on all questions without revealing its strategy, its leadership, and its membership to the police (who would, and did, place spies in the organization). Under Tsarist autocracy only an incorrigible utopian would ask for a large organization with elections, reports, and universal suffrage.

But there were other reasons for an undemocratic organization. A revolutionary movement needed leaders of special skill. Such men are rare ("talented men are not born by the hundred"), the rank and file is not likely to choose them, and, once chosen, it would be wrong to subordinate their policies to the judgment of the

less talented members of the party. Lenin was merciless in his attack on the "wiseacres" who cried out "with the profundity of fools" that "it is a bad thing when the movement does not proceed from the rank and file." The rank and file would be only too likely to elect demagogues instead of revolutionaries. Leaders, therefore, must be co-opted, that is, chosen by others who already were experienced and able leaders and who knew the qualities needed for successful revolutionary endeavor.

Thus, neither in spirit nor in form of organization was there a heritage of democracy to pass on to the postrevolutionary party.

## II. THE PARTY IN THE POSTREVOLUTIONARY PERIOD

The absence of democracy was no impediment to success. On the contrary, the organization of professional revolutionaries made the revolution precisely as Lenin had predicted and desired. Making the revolution, however, proved to be only the beginning of its work. Party leaders explained that an even more important task was the consolidation of the revolution and the introduction of a socialist economy, and that for this task the continued leadership of the Party was indispensable.

### *The Party as Defender of the Revolution*

The first new task of the Party was to defend the revolution not only against its foreign enemies but against those at home as well. In fact, even after the foreign armies withdrew and the anti-Bolshevik armies were crushed, the struggle had still to be carried on against "antagonistic classes" inside the country. The revolution aimed at a "classless society," and this goal required the eventual destruction of the remnants of the old ruling class—the nobility, the landlords, the bourgeoisie—and those who, like the priesthood and the intellectuals, were regarded as its dependents. Later, the war against the kulaks called for even more vigorous measures of suppression (pp. 457, 504).

By 1936, however, Stalin could announce that all hostile classes had been liquidated. Henceforth, if the Party had a function as defender



of the revolution at home, it was as watchman against the "spies, assassins, and wreckers" whom foreign enemies were accused of sending into the Soviet Union.

The fear of hostile classes at home had been intensified by the danger that they might co-operate with invaders from abroad. In the first flush of successful revolution Lenin and his associates had expected the Russian Revolution to be only the first in a world-wide series. But the Communist success in Russia remained unique; everywhere else the revolutionary attempts were defeated. Thus Soviet Russia stood alone in a suspicious capitalist world, and the Russian people were warned constantly of the danger of capitalist encirclement and invasion, a danger which became imminent when Hitler won power in Germany on a bitterly anti-Communist platform.

Germany's attack on the Soviet Union in 1941 seemed to confirm these fears, even though capitalist countries like Great Britain and the United States, instead of joining the "crusade against Communism," immediately extended help to the U.S.S.R. Moreover, with the end of the war, there was no statement that the danger of capitalist encirclement had been liquidated. On the contrary, Stalin and his closest collaborators continued to warn that "international reaction" was plotting war against the Soviet Union and that efforts must be redoubled to strengthen the country "against all possible accidents." The former allies were repeatedly accused of plotting imperialistic attacks, and the leadership of the Communist Party was proclaimed to be more important than ever to protect the country against its enemies.

### *The Party as Inspiration, Example, and Educator*

The second function of the Party, in the words of the Soviet Constitution (Article 126), is to act as "the vanguard of the working people in their struggle to strengthen and develop the socialist system."

As we have observed, Marx and his followers had expected the revolution to take place first of all in highly industrialized countries like Germany or Great Britain, and in such countries a mere change in the form of ownership and the

purposes of production was expected to achieve the prosperity of the people. In Russia, however, before the promised reign of abundance could come into existence, a revolutionary transformation had to take place. The devastation of the Civil War had to be repaired, an agricultural country had to be industrialized, and an illiterate and backward people had to acquire the technical knowledge and skills necessary for a twentieth-century economy. Moreover, at the very time that men were being shifted from agriculture to industry, the productivity of agriculture itself had to be increased. An economic development which had taken a century or more in the West was to be compressed into a few decades. The capitalist countries, it was constantly reiterated, had to be "overtaken and surpassed."

The result was a staggering, backbreaking task, calling for infinite fortitude, strain, sacrifice, and devotion. Attention could not be given first of all to the things which would give immediate satisfaction to the people—to the production of clothing and houses and other consumers' goods. Instead, heavy industry had to be built, natural resources had to be developed, and men and women had to be taught the technical skills of an industrialized society. Eventually these resources and factories and skills could be used to satisfy the consumer, but first there had to be a long period in which people would sacrifice and struggle without seeing any great improvement in their standard of living.

In this task the Party member was indispensable. It was up to him to explain to the ignorant peasant or worker why it was necessary to toil and sacrifice. It was up to him to master the new skills and to teach them to the people. It was his responsibility at all times to set an example of earnestness and courage, of discipline and devotion. When workers were disheartened or lagging, he was to rouse their enthusiasm and stimulate their effort by conveying some conception of the ideal by which he himself was motivated. And this was no easy task. Marxist doctrine, even in its most simplified and oversimplified form, makes considerable intellectual demands. There had to be teachers of ability if people were to be inspired to work and sacrifice in its name. Moreover, the Party member had to teach by example. Whenever there was a dif-

ficult job to be done, he was to volunteer. He was to work harder and longer than others. His fortitude and devotion were to provide inspiration to all who worked with him. His conduct was to win respect and admiration for the Party. He was to guard against discouragement and opposition. At all times he was to be guide, watchman, teacher, and animator, exhorting the masses and himself setting the example. In this way the Party was to be an education and an inspiration to the whole of Russia.

### *The Party as Governor*

In the third place, the Party had, and has, the job of leading and directing the government. According to the institutions and procedures established by the Soviet Constitution of 1936, the Soviet Union is a political democracy. Without changing a word of the Constitution, the system could be made to work much as does any parliamentary democracy. There is a popularly elected legislature, and there is a Council of Ministers chosen by and responsible to it. There is, in addition, a federal system in which the member republics appear to have great powers. By implication, it is quite possible for the two houses of the Supreme Soviet to disagree with each other, for the Supreme Soviet to reject policies and proposals of the Council of Ministers, and for the federal republics to pursue foreign policies which differ from one another and from that of the Soviet Union as a whole.

As a matter of practice, however, none of these things occurs. The popularly elected Supreme Soviet and the governments of the Union Republics never act in such a way as to embarrass the government of the Union. The Supreme Soviet never votes a Council of Ministers out of office. The Soviet of the Union never disagrees with the Soviet of Nationalities. The Ukraine never differs in foreign policy from Byelorussia or the Soviet Union. Most remarkable of all, there is never a case in which any of these bodies acts other than unanimously. Every vote in the Supreme Soviet is a unanimous vote: a "loyal opposition" does not exist.

The explanation of this remarkable unanimity lies in the work of the Communist Party. Every political institution—the Council of Ministers, the two chambers of the Supreme Soviet, and

the governments of the federal republics—is under its control. If, in form, the organization of the government is decentralized and permits of disagreement, the Communist Party itself is highly centralized and permits of none. Both in legislation and administration, it is the Party which controls at all times, deciding what is to be done, when it is to be done, how it is to be done, and by whom. The Party, in the of Stalin, is the "supreme guiding energy in State." The Constitution states frankly that the Party is "the leading core of all organizations of the working people, both public and state." In explaining the Constitution in 1936, Stalin made this position even more explicit: "I must admit that the draft of the new Constitution leaves unchanged the present leading position of the Communist Party of the U.S.S.R. If our venerable critics regard this as a shortcoming of the draft Constitution, this can only be regretted. We Bolsheviks, however, consider this as a merit of the draft Constitution."

In the same spirit Stalin could tell the Eighteenth Congress of the Party in 1939 that the Party cadres "constitute the commanding staff of the leading organs of state. After a correct political line has been worked out and tested in practice, the Party cadres become the decisive force in the work of guiding the Party and the State." Not only do they direct the work of the Soviet and other governmental organs: it is their job to see that all mass organizations (trade unions, co-operatives, youth organizations, cultural organizations, and others) accept the Party's leadership and carry out its instructions. Thus Stalin could write, "... no important political or organisational problem is ever decided by our soviets and other mass organisations without directives from the Party ... the dictatorship of the proletariat is, substantially, the 'dictatorship' of its vanguard, the 'dictatorship' of its Party, as the force which guides the proletariat."<sup>1</sup>

### METHODS OF PARTY CONTROL

There are three principal methods by which the Party governs. In the first place, all of the highest administrative officials of the state and the great majority of the members of the Su-

<sup>1</sup> Stalin, *op. cit.*, Vol. I, p. 33. The party charter adopted by the 18th Congress is printed in Appendix C.

preme Soviet are members of the Communist Party. As such, according to the Party rules (Article 71), they are guided "strictly and unswervingly" in all questions "by the decisions of the leading Party organs." Thus the leading Party organs themselves become the governors of the state.

This practice, it should be noted, contrasts with the situation in both Great Britain and France. The British Cabinet, when the Labor Party is in power, does not consider itself responsible either to the Executive Committee or the Party Conference: it is responsible only to Parliament and, through Parliament, to the voters. French parties, to be sure, frequently give instructions to party members who hold Cabinet office; but the multiparty system, in the past, has prevented any French party from winning a parliamentary majority, and therefore no single party has been in a position to dominate the organs of government or to issue mandatory orders to them.

But in the Communist Party of the Soviet Union, the parliamentary group of the Party is subject to the Party's Central Committee and must carry out its instructions, as must the members of the Council of Ministers. Thus Molotov, when he was Prime Minister, assured the Supreme Soviet on January 19, 1938, that on all important questions the Council of People's Commissars (as the Council of Ministers was then known) would "ask advice and instructions from the Central Committee of the Bolshevik Party, and in the first instance, from Comrade Stalin. . . ." This practice, he maintained, in spirit and letter, conformed to "our great Constitution."

It is significant that Stalin at this time, although he held no official position of importance, was commonly credited with wielding power greater than that of Hitler or Mussolini. He was neither President nor Prime Minister of the Soviet Union: he was simply the Secretary-General of the Communist Party. (It was only in 1941 that form was made to fit fact and that Stalin assumed the official position of Prime Minister.) Yet he was the supreme power in the country. Something of the equivalent situation might exist in the United States if, let us say, the Republican Party were the only party and if the President, his Cabinet, and the great

majority of the members of Congress took their orders from the Republican National Committee. Under such circumstances, the most important man in the United States would be, not an official elected by vote of the people, but the chairman of the Republican National Committee.

Although there is no national equivalent for such power in the United States today, it should be pointed out that American bosses offer many parallels to this power in local politics. Some American cities resemble the Soviet Union in having authority rest, not in the titular head of the city's government, but in the head of the political machine. Mayor Hague, for example, ruled Jersey City not because he was mayor but because he controlled the Democratic (and, some would add, the Republican) machine. Pendergast could control Kansas City, or Crump, Memphis, without occupying the office of mayor. There are, of course, differences between American bosses and the leaders of the Communist Party, but in each case their power is based on the control of the machine of the party which controls the government.

In addition to its control of the men who head the government, the Communist Party has a second method of governing: it possesses the power of issuing directly legislative and administrative directives. Announcements of governmental policy generally are made in the name both of the Central Committee of the Communist Party and the Council of Ministers, very much as though in the United States administrative rulings and statements on government policy could be proclaimed by the Republican National Committee acting with the President of the United States. There are even times when the Party takes governmental action directly and alone.

The fact that the Party controls all the higher agencies of government reduces the significance of such action, since the result is the same whether the Party acts indirectly and more in accordance with constitutional precept or whether it makes direct use of its power. But the practice is significant in its frank acknowledgment that a group of Party leaders who are not chosen by or responsible to the electorate as a whole or even to its elected representatives are the real governing authority in the state.

The third means of Party control is through the "fraction," or Party unit, which exists in virtually every organization in the country: Soviet, trade union, collective farm, and so forth. The fraction consists of all the Party members in a particular organization, and acts as a highly disciplined, directed group to make sure that the organization follows policies in line with Communist aims and directives. Because of its closely knit unity and obedience to orders, the Party fraction is a supremely effective device for maintaining minority control of large organizations. Thus the Party not only governs at the top but also permeates every institution in the country (except the church) at every level.

### *The Party as Supplier of Information*

There is less information available about a fourth function of the Communist Party: the maintenance of close contact with the masses of the people. The rank and file of the Party are expected not only to explain Party policy to their fellow citizens but to report back to their leaders the feelings of the masses and to warn them when any act or policy is unpopular or has unfortunate consequences. The Party's Department of Propaganda and Agitation directs tens of thousands of "oral propagandists" who address the crowds in parks and rest homes, at factories during the lunch hour, and at clubs in the evening, building an understanding of and enthusiasm for the Party's program. They are expected, as part of their work, to report to their superiors the comments and questions they hear, and in this way the leaders learn something of the feelings of the masses (see p. 444).

Here the members of the Party perform a function which in Great Britain or France would be performed by the press, the opposing parties, and other agencies of public opinion. But in a country where the press is directed from above and where no opposition is tolerated, where there can be open criticism only of the way in which a policy is carried out and not of the policy itself, where any act of protest or resistance would be regarded as counterrevolutionary, and where there is no possibility of registering discontent by voting for an alternative government, other sources of information must be found.

The probability is, however, that the work of the Party in this respect is far from perfect. The fact that the same men and women who collect information are those who disseminate the Party line and who have been carefully indoctrinated in Party "science" suggests that in many cases they hear only what they expect to hear and report back to the leaders the very opinions which it is their job to propagate. In this sense, the leaders become to some extent the victims of their own propaganda and have their own preconceptions confirmed by the reports which come in.

## III. CHARACTERISTICS OF THE PARTY

### *The Single-Party System*

The most striking difference between the Communist Party in the Soviet Union and the parties of Western democracies is the Communist monopoly of political activity. The official explanation of this situation is that in a "classless" society other parties would be superfluous. Parties supposedly exist in order to represent the conflicting interests of different classes. In the U.S.S.R., however, with the destruction of capitalists, landlords, and kulaks, only two classes are left: the workers and the peasants. These are friendly classes, and they have no need for separate parties to represent them. In Stalin's words, "there are no grounds for the existence of freedom of such parties in the U.S.S.R. There are grounds for only one party, the Communist Party, in the U.S.S.R."

To an American such an explanation makes less sense than it would to the native of a country where the party system conforms more closely to a class division. Both the Republican and Democratic parties in the United States cut across class and sectional lines and compete for the votes of the same people. Thus it seems natural that rival parties should agree on fundamentals and still differ vigorously on specific policies.

But even to those who live in a country like Great Britain, where party structure is more nearly parallel to class structure, it seems obvious that the existence of an opposition party is essential to successful democratic government.

In Great Britain the Opposition is often referred to as the most important part of the government, and its leader, far from being threatened with shooting or imprisonment, is paid a salary by the government itself. It is the constant day-to-day criticism of the Government which insures that it will act in a responsible way, scrutinizing legislative proposals and administrative actions to avert disaster during the question period and in the course of parliamentary debate.

The leaders of the Communist Party want the Soviet Union to be, in appearance at least, a political democracy, with elected officials, a representative legislature, a responsible executive, and universal suffrage. At the same time they have been reluctant to face the prospect which must be faced by office-holders in every Western democracy: that the voters may use their power to vote the elected officials out of office and that the legislature may become a forum from which leaders of the Opposition can attack the Government's policies and persuade the voters to defeat it in the next election.

As we have seen, such a problem arose to embarrass the Communist government at the very beginning of its career when the Constituent Assembly elected in November 1917 contained only a minority of Bolsheviks. Thus the Party faced a choice between recognizing the authority of the Constituent Assembly (and seeing its own plans for a new society destroyed) or of insisting that the Constituent Assembly recognize the authority of the Soviets (which the Communists dominated). To Lenin, there could be no reason to hesitate. When the institutions of "formal" or "pure" democracy conflicted with the aims of the revolution, the forms of democracy had to give way. "To relinquish at this stage any particle of the power of the Soviets," Lenin declared, "for the sake of the bourgeois parliamentarism and the Constituent Assembly, would be a step backward and would mean the complete collapse of the October workers' and peasants' revolution."<sup>2</sup> The Constituent Assembly was dissolved by force, and Lenin replied to the protests of foreign democrats and socialists that revolutionary Marxists had never made an idol of "pure" democracy and that they

would disperse any parliament which was found to be counterrevolutionary (see p. 456).

#### SUPPRESSION OF OPPOSITION

At first there was some disagreement among Bolshevik leaders themselves over the desirability of a one-party government and the suppression of other parties, and for a time left-wing Socialist Revolutionaries were admitted to the Cabinet (Council of People's Commissars). Most "bourgeois" newspapers and political activities were suppressed, however, and by the summer of 1918, when the left Socialist Revolutionaries split with the Communists on the issue of the Treaty of Brest-Litovsk, all opposing parties became the object of persecution.

Given its tradition, it was understandable that the Communist Party should use the weapons of terror against all opposition parties during the period of the revolution and civil war. But even when the war was over and when the Communist Party, under the New Economy Policy, was sponsoring policies similar to those advocated earlier by the Mensheviks and Socialist Revolutionaries, the ban on competing parties continued. "The place for Mensheviks and Socialist Revolutionaries, open or disguised as non-party, is in prison," Lenin said. The period of building socialism was just as desperate as the period of civil war, and no opposition could be tolerated. "For the public advocacy of Menshevism," he told the Eleventh Party Congress in 1922, "our revolutionary courts must pass sentence of death, otherwise they are not our courts, but God knows what." When Mensheviks and Socialist Revolutionaries complained, saying, "We have always said what you are saying now, permit us to say it again," Lenin replied: "Permit us to put you against the wall for saying that. Either be good enough to refrain from expressing your views, or, if you want to express your political views publicly in the present circumstances . . . then excuse us, we shall treat you as the worst and most pernicious White Guards."<sup>3</sup>

Stalin's accession to power brought no change in policy. "The leader of the State, the leader within the system of the dictatorship of the proletariat," he wrote, "is one party alone, the

<sup>2</sup> Lenin, *op. cit.*, Vol. VI, p. 461.

<sup>3</sup> Lenin, *op. cit.*, Vol. IX, p. 343.



party of the proletariat, the party of the Communists, which does not and cannot share that leadership with other parties." <sup>4</sup> Even when he proclaimed in 1936 that the enemies of the revolution had been destroyed (supporters of the one-party system would say *because* such enemies had been destroyed and no longer provided a basis for an opposition party) and that the socialist regime was firmly established, he maintained that grounds existed for the existence of only one party, the Communist Party, in the U.S.S.R.

When elections are held for the Supreme Soviet a certain number of candidates who are not members of the Communist Party (in the 1946 election, they constituted 19 per cent of the candidates) are placed upon the ballot with Party approval. But these nonparty deputies are not permitted to meet together and decide upon a common policy. Only the deputies of the Communist Party may do this. And as a result the nonparty members accept without question the policy of the Party, and the voting records of the nonparty deputies are indistinguishable from those of genuine Party members.

### Size of the Party

With the triumph of the revolution, one of the outstanding reasons for keeping the Party small disappeared. There was no longer the Tsarist police to fear, and the need for professional revolutionaries had passed. Yet the conception of the Party as a small organization of talented leaders did not change. Men with the devotion and talent needed to build a socialist society still were rare, and it was believed that only a small group could maintain the necessary enthusiasm and sense of mission. Thus Lenin was already complaining in 1922 that the Party was too large, that it was being joined by opportunists and patronage-seekers, and that measures must be taken to limit its size and to improve its quality.

To the leaders of a political party in Great Britain or France it would be inconceivable for a party not to want to be as large as possible. But in the U.S.S.R., with an immensely difficult task of "socialist construction" to perform, abil-

ity and concentration were more important than numbers. Stalin could declare in 1924:

It is not given to everyone to be a member of such a party. It is not given to everyone to stand the hardships and storms connected with membership of such a party. It is the sons of the working class, the sons of want and struggle, the sons of incredible privation and heroic efforts who before all should be members of such a party.

And his words were still quoted with high approval at the Party Congress of 1939.<sup>5</sup>

As a result, the Party has, ever since the revolution, found itself in something of a dilemma. With the assumption of the direction and planning of all political, industrial, and agricultural activity, there has been a tremendous growth in the size of the bureaucracy. If the Communist Party is to be the governing party, the highest positions in all of these undertakings must be held by Party members; and in carrying out each new plan there must be vigorous, loyal, and devoted Party members to set the pace and provide direction. The demand for talent and skill is an endless one; and in recruiting as members the men to do this work, the Party inevitably must grow at a spectacular rate.

Yet the opening of the doors means the possibility that opportunists may gain admission. Since the Communist Party is the dispenser of important jobs in government and industry, thousands of those who did not share its early struggles or believe in its ideals might be expected to join from motives of personal ambition and aggrandizement.

As a result, there has been a repeated alternation of policy. The Party has grown rapidly, from 23,000 members in March 1917 and 200,000 in November to more than six million by 1947. But during this period there have been repeated attempts to limit and "purge" the membership. In 1921 and 1922 more than a quarter of the Party's members were expelled. There were other great purges in 1928-1929 and 1933-1938, and in between there were minor purges. Yet there also were membership campaigns, sometimes conducted simultaneously with the purges, to bring into the Party those who were specially talented or who had distinguished themselves in different lines of socialist endeavor. At no time, how-

<sup>4</sup> Stalin, *op. cit.*, Vol. I, p. 25.

<sup>5</sup> *The Land of Socialism Today and Tomorrow*, p. 223.

ever, has there been any change in the conception of the Party as an elite organization, a select band of leaders. If six million members seemed, in absolute terms, a large number, it was not a great percentage of the 100,000,000 voters. And by 1947 complaints were again being heard that the Party was much too large.

Before 1939 there were special restrictions upon certain types of members. Candidates for membership were divided into different classifications according to their occupation and "class origin," and those in the less favored categories had to serve an exceptionally long period of probation and to find exceptionally large numbers of sponsors. In 1939 the rules were made more uniform. All candidates for membership, regardless of occupation and ancestry, had to be recommended by three Party members of at least three years' standing who had known the candidate for at least one year. After a probationary period as a "candidate member," the applications of prospective members were to be discussed in general meetings of the primary Party organization. The decision of this body was then to be endorsed by the district or city committee. Prospective members were no longer required to "master" the Party's program: it was enough for them to "accept" it. Each member, however, was to be admitted individually on the basis of his personal record and qualifications. There were to be neither admissions nor purges of members en masse.

During World War II, however, this rule was broken. The Party suffered extremely heavy casualties since, in battle as in socialist construction, Party members were expected to give an example of self-sacrifice and heroism. To replace them, to enhance the prestige of the Party, and to insure the loyalty of the fighting men, vigorous efforts were made to bring war heroes into the Party; there were times when hundreds of members were inducted, en masse and without prior examination, on the field of battle. In 1947 Georgi Malenkov, the secretary of the Party, reported that half of the 6,300,000 members had joined during or after the war, and unofficial observers guessed that the proportion was even higher. Such men were not likely to have deep

convictions binding them to the Party or a clear understanding of its principles and aims.

Not surprisingly, therefore, the Party has concentrated on consolidation and political education since World War II. There have been no spectacular purges. Instead there have been quiet, systematic interrogations, shake-ups among local Party officials, demotions, and re-education periods for many during which they are placed on probation until they prove their right to full membership again. Entrance requirements and discipline have been tightened. Party schools and courses have been widely established to give intensive training in Marxist-Leninist-Stalinist doctrine. Behind this is the drive to re-establish Party control in every aspect of life, and to mobilize the Russian people for the great new industrial effort to strengthen the Soviet Union against the "imperialist" West.

### Composition of the Party

Today the Communist Party is a party of young men and women. At the end of the war, 63.6 per cent of Party members were under thirty-five. Today few Party members can recall the prerevolutionary era; almost all grew up in the period of unquestioned Stalinist leadership.

The level of education of Party members has risen noticeably. More than half the six million members have had some high school training; nearly half a million have been through a university. Rarely does the Party now profess that it is "the vanguard of the working class," though during the 1920's there was a constant struggle to see that half of the Party's members, even if not themselves workers, should be of "working-class origin." Rather it is said to consist of "the best representatives of the working class, the peasantry, and the intelligentsia." A large proportion of Party members, in fact, hold managerial positions in government, industry, or agriculture—a development which is natural when one considers the change in the function of the Party from the making of a revolution to the building of a highly industrialized state under a planned economy.

The lowest representation is still from the rural areas, though the number of Party fractions in the collective farms rose from about one

<sup>6</sup> The lowest local party organ. For a fuller description, see below, p. 476.



in every twenty collective farms in 1939 to one in every three farms ten years later. It remains true, however, that the Party's hold becomes more tenuous the farther removed the area is from the great industrial centers.

### Discipline Within the Party

With the suppression of all opposition outside the Communist Party, the only place where freedom of political discussion and opposition could appear was within the Party itself; and although Lenin had insisted, in prerevolutionary days, on absolute, undeviating discipline, and although the rank and file of Party members could not challenge the decision of the leaders, there were certain occasions when the leaders

lives disagreed. The official theory was (and is) that of *democratic centralism* according to which there is freedom of discussion within the Party until a policy is adopted but absolute obedience to that policy once it has been adopted. Freedom of discussion does not assume as in Western democracies that truth will emerge from the competition of ideas but only that criticism should aid the achievement of unity. Thus Lenin wrote in 1906 that democratic centralism involved "freedom of criticism so long as *unity in a specific action* is not destroyed thereby—and the inadmissibility of any criticism *whatever* which undermines or makes difficult *unity* of any action decided on by the Party."

As far as organization is concerned, the Party regulations (Article 18) adopted in 1939 state that democratic centralism means:

- a. The election of all leading Party bodies, from the highest to the lowest;
- b. Periodical reports of the Party bodies to their Party organizations;
- c. Strict Party discipline and subordination of the minority to the majority;
- d. The absolutely binding character of the decisions of higher bodies upon lower bodies.

In the years immediately following the revolution the desperate urgency of the situation threw decision-making into the hands of Lenin and his closest associates. Whenever the ruling ideology provided an answer, they acted without consulting the Party membership. Where

they failed to agree on objectives and means, however, Party meetings were characterized by considerable freedom of discussion, and it was not a foregone conclusion that the leader of the Party would always have his way. Lenin, for example, was twice voted down by the Central Committee of the Party in February 1918 on his proposals for peace with Germany, although he eventually won a majority to his side. The Seventh Party Congress, which met in March 1918, was marked by stormy debates on this issue; and although Lenin finally won by a vote of 30 to 12, it was clear that Party decisions at this time did not need to be unanimous. Later the introduction of the New Economic Policy and the change in the position of the trade unions aroused controversy within the Party.

### PARTY DISCIPLINE UNDER LENIN

It would be wrong, however, to suppose that this freedom of discussion marked any lessening of Party discipline. Lenin wrote, in 1920, "In the present epoch of acute civil war the Communist Party will be able to perform its duty only if it is organized in the most centralized manner, only if iron discipline bordering on military discipline prevails in it, and if its party center is a powerful organ of authority, enjoying wide powers and the general confidence of the members of the party."<sup>7</sup> He insisted that the Bolsheviks "could not have maintained themselves in power for two and a half years, and not even for two and a half months, without the strictest discipline, truly iron discipline in our Party."<sup>8</sup>

Such discipline was necessary, Lenin taught, not only during the period of revolution and civil war but as long as different classes survived. In 1921, at the Tenth Party Congress, he presented a resolution on Party unity which attacked "factionalism" within the Party, that is, the development within its ranks of any "opposition" having its own platform and discipline. In the same spirit Stalin declared in 1924 that "the existence of factions within the Party is directly inimical to unity and discipline. . . . The existence of several centres means a lack of one general controlling body; it means a division of purpose, a divided will. . . . The Party constitutes a unity of wills which is incompatible with

<sup>7</sup> Lenin, *op. cit.*, Vol. VII, p. 204.

<sup>8</sup> *Ibid.*, Vol. X, p. 60.

any setting up of factions and any division of power."<sup>9</sup>

There was still, in theory, a recognition of the desirability of a certain amount of freedom of criticism and discussion. Thus Stalin could write: "An iron discipline, far from excluding criticism and conflict of opinion, presupposes that such struggles will arise." But he added: "When a difference of opinion has been thoroughly thrashed out, when criticism has had its say, and when a decision has been made, then unity of will and of action on the part of all our members is the indispensable condition without which unity and discipline are impossible."<sup>10</sup>

#### PARTY DISCIPLINE UNDER STALIN

The struggle for power precipitated by Lenin's death in 1924 was reflected in contests at the Thirteenth, Fourteenth, and Fifteenth Party Congresses, which were held in 1924, 1925, and 1927 respectively. At each of these Congresses Trotsky and his current allies claimed that they were simply making use of their right of intra-party discussion, while the supporters of Stalin accused them of creating a faction within the Party and of refusing to abide by earlier Congress rulings based on the doctrine of democratic centralism. Even discussion, however, was distasteful to the majority group. It would be almost inconceivable for a statesman, in a country where freedom of discussion is regarded as the essence of democracy, to say as Stalin said in 1925: "Now, I regret to say, we have entered a period of new discussion. Still, I am convinced that the Party will quickly get through with this discussion and that nothing serious will happen." Or again, "Discussion must not be driven too far. We must never forget that we are a ruling Party. We must not forget that any open expression of our differences may reduce our influence in the country—to say nothing of the effect it may have abroad. . . . The unity of the Party must be and will be maintained."<sup>11</sup>

By the sixteenth Party Congress, in 1930, Stalin could report happily: "All are obliged to recognize that now the Party is today more united and single-minded than ever before, and

that the Sixteenth Congress is one of the few Congresses in our Party at which there is no longer an organized and well-defined opposition, capable of putting forward its own particular policy as against the general policy of the Party." As a matter of fact, the Fifteenth Party Congress in 1927 was the last in which any opposition showed itself. Subsequent meetings of the Party Congresses were as harmonious and unanimous as the meetings of the Supreme Soviet itself; since 1930, the Party Congress has not even met (see p. 478).

#### The Monolithic Party

Thus in practice, Party unity and discipline have had two results: to eliminate the influence of the rank and file on major policy decisions, and to concentrate decision-making in the hands of a small and virtually permanent group, the Politburo. This reflects the official Stalin conception of the "monolithic Party" first enunciated in 1924 in the struggle against Trotsky. As this view crystallized, party dogma, as formulated by the Politburo, was elevated above criticism and extended into all spheres of life, cultural as well as political. Even Lenin's assumption that there could be criticism of major ideas and policies by his Party colleagues was replaced in time by the notion of the infallibility of the leader, Stalin. Thus the monolithic Party achieved in practice and theory its logical apex.

#### PARTY SELF-CRITICISM

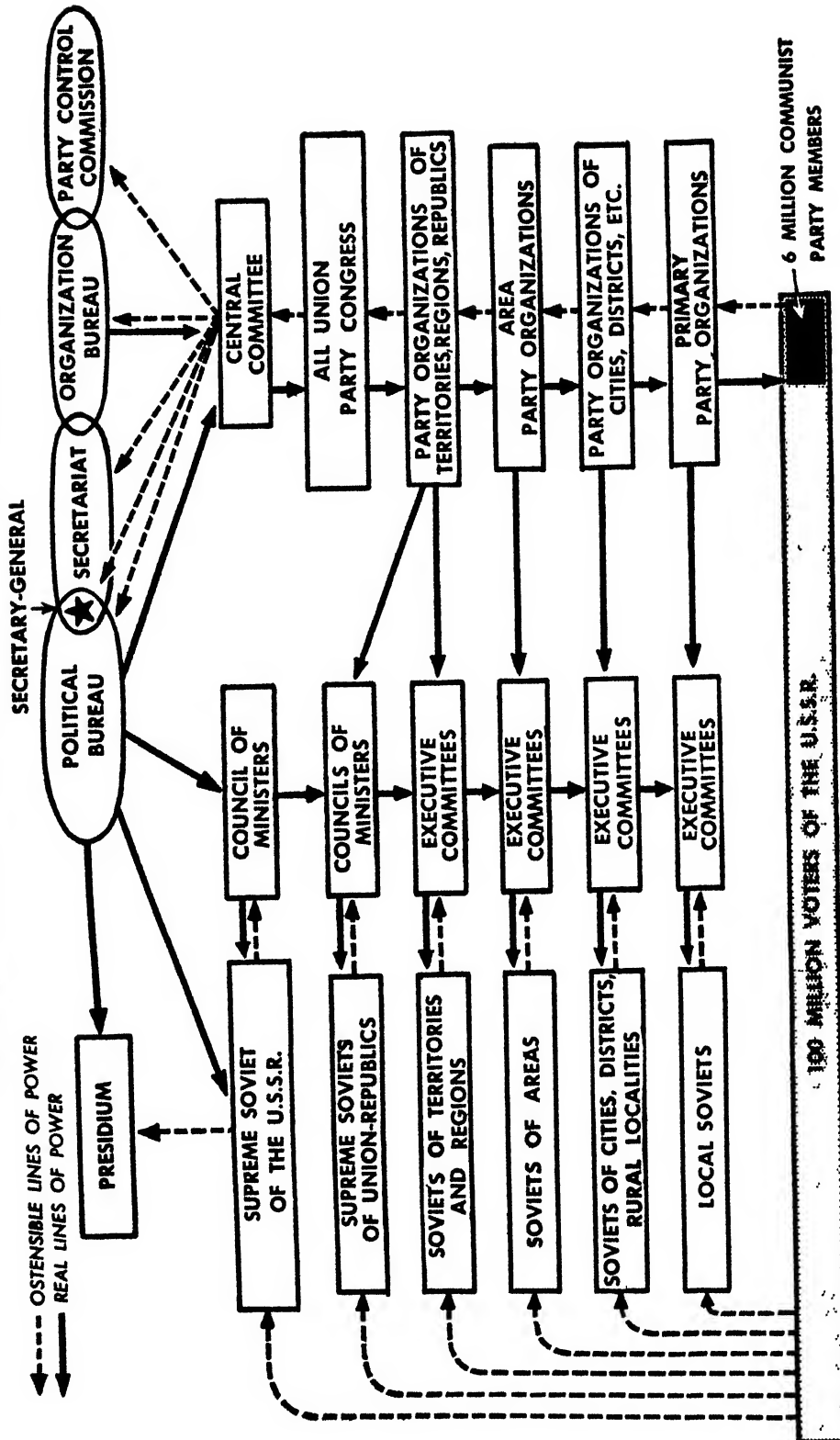
The Party does place great emphasis upon self-criticism or, as it is called, "Bolshevik self-criticism" (p. 446). According to this practice the Party is supposed to search for and point out to itself its own weaknesses. To the foreigner, however, such criticism inevitably seems artificial. There is never any criticism of Stalin or his close associates or of the current policy of the Party, only of the way in which it is being executed. Stalin or one of the other leaders of the Party may criticize a policy—but this is already the equivalent of an announcement that the policy is being changed. In addition, leaders of the Party often attack certain practices of subordinate officials, and once the signal has been given and the appropriate prey designated, ordinary Party members join in the denunciation.

<sup>9</sup> Stalin, *op. cit.*, Vol. I, p. 172.

<sup>10</sup> *Ibid.*, p. 171.

<sup>11</sup> *Ibid.*, pp. 422, 457.

# THE COMMUNIST PARTY AND THE SOVIET GOVERNMENT



This is a useful device for keeping subordinates in order and breaking up any local combinations which might challenge the central Party authorities. But the Party's leaders and the Party line are sacrosanct. Stalin and his colleagues are never obliged to listen to, or reply to, the sort of attack to which the leaders of the Labor Party in Great Britain or the Socialist Party in France are subjected at their annual party conferences and congresses.

#### STRAINS AND STRENGTHS

It would be absurd, of course, to claim that there are no stresses or rivalries within the so-called monolithic party. The very absence of effective channels for criticism or regular means of advancement necessarily creates an atmosphere in which intrigue thrives. Groups of local officials often play into each other's hands instead of checking each other, as the system would have them do; small officials attach themselves to a powerful patron, rise with him or are shattered if he falls into disgrace. Rivalry, such as that between Malenkov (see p. 499) and Zhdanov, before the latter's death, may go deep into the Party's membership, creating two blocs of power, each striving for supremacy and eager to destroy the other.

At the same time, it is unwise to overestimate the effect of these strains. The present membership of the Party is drawn largely from those who occupy responsible and privileged places in society, whose interests are largely administrative and technical, and who have grown up within the Stalinist tradition of authoritarianism. They are proud of the industrial achievements of the Soviet Union. They believe that this industrialization was the essential foundation for victory in the war, and attribute the defeat of the Nazis largely to the efforts of their own country. Aware of the still untapped resources of the Soviet Union, they are unlikely to have doubts about speeding industrialization despite the sacrifices it involves. Cut off as they are from the ideas of the West, convinced of the superiority of their own system, the members of the Communist Party have a drive and a cohesion that may well outweigh divisive factors, even when the death of Stalin precipitates a new race for the succession.

#### IV. THE PARTY ORGANIZATION

The organization of the Communist Party is, in form, that of a great pyramid. At its base are the primary Party organizations (in 1946, according to *Pravda*, there were 250,000 of them) which, according to the Party rules

are set up in mills, factories, state farms, machine and tractor stations and other economic establishments, in collective farms, units of the Red Army and Navy, in villages, offices, educational establishments, etc., where there are not less than three Party members.

Where there are at least fifteen members, executive committees called *bureaus* are elected. The most important member, however, is the secretary. In those primary Party organizations that are large enough, there may be, in addition, several full-time paid workers.

On the next level above the primary Party organizations are city or district (both rural and urban) Party committees. Each of these committees elects a bureau and three secretaries, who must be confirmed by the regional committee, territorial committee, or the Central Committee of the Communist Party of the republic in which the city or district is located. The city or district committee supervises and guides the activities of the primary Party organizations within the city or district and appoints and directs the work of the editorial board of the local Party publications. It also supervises the work of Party groups within nonparty organizations like trade unions, youth organizations, or co-operatives. According to the Party rules, city and district conferences (which elect committees and hear reports) must be held once a year.

Above the city and district committees are area Party organizations which are subdivisions of the larger regions, territories, and republics. Here conferences are supposed to be held every eighteen months, and committees are elected which in turn elect a bureau and four secretaries who must be confirmed by the regional committee, territorial committee, or Central Committee of the Communist Party of the republic in which the area is located.

Next in the hierarchy are the Party organizations for entire regions, territories, or republics. The highest authority in each organization is a

Party conference which is supposedly convened every eighteen months and which chooses a committee that in turn appoints a bureau and four or five secretaries, who must be approved by the Central Committee of the Communist Party of the Soviet Union. Like the committees below them, they organize, supervise, and direct the work of the Party within their territory, appoint and control the editorial board of the regional, territorial, or republican Party organ, and direct the Party groups in nonparty organizations.

Finally, at the top of the hierarchy, there stand the Party organs of the U.S.S.R. as a whole. Here, according to the Party rules, the supreme organ is a *Party Congress* which elects a *Central Committee* which in turn elects a *Political Bureau*, an *Organization Bureau*, a *Secretariat*, and a *Party Control Commission*. There is also provision for a *Party Conference* to hold meetings between sessions of the *Party Congress*.

In general outline, this organization does not differ sharply from the organizations of some democratic parties in Western countries. However, there has been a vast difference in spirit and operation, in the periods when all these organs actually met. Under the conditions of democratic centralism, as described above, authority comes from above, not below. The fact that the secretaries of the city, district, area, and higher Party organs, the most important officials within the respective organizations, are all approved from above means that effective control rests with the leaders and not with the rank and file. Their power to direct or prevent discussion, and the clear recognition in the Party rules of "The absolutely binding character of the decisions of higher bodies upon lower bodies," shuts out the possibility of any movement from below contrary to the desires of the leaders. In fact, a favorite comparison of the leaders of the Party is that between the Party and an army. In a speech to the Central Committee in 1937 Stalin commented that the three or four thousand leaders of the Party were the generals of an army, that below them was an officers' corps of thirty or forty thousand, and that below them were one hundred to one hundred and fifty thousand noncommissioned officers. He might have added that above all of them is a

General Staff, the Political Bureau, and a Commander-in-Chief, himself.

### The Party Congress

This concentration of power in the hands of the relatively small group of men comprising the Politburo is reflected in the increasing disuse of larger Party organs which, in theory, are superior to it. According to the Party rules, the Party Congress, like the Annual Conference of the British Labor Party, is the supreme organ of the Party. Each new Congress is supposed to elect a new Central Committee of the Party, to determine the tactical line of the Party on many questions of current policy, revise and amend the program and rules of the Party, and hear and act on the reports of the Central Committee and other central Party organs.

In fact, however, the Communist Party Congress has always wielded far less authority than these statements would suggest. In the first place, its members have been chosen in accordance with rules laid down by the Central Committee, which thereby acquired a certain authority over membership. In the second place, and more significantly, its meetings became increasingly infrequent until they stopped altogether. From the revolution until 1925, meetings were held annually. Thereafter the interval between meetings grew progressively—a two-year lapse from 1925 to 1927, a three-year lapse until 1930, a four-year lapse until 1934, and a five-year lapse until 1939. Since that time, no Party Congress has been held. Even if, in accordance with Party rules, it should meet every three years, it would clearly be in no position to direct even the main lines of Party policy.

### The Party Conference

In the intervals between Party Congresses, Party Conferences are supposed to be convened not less than once a year by the Central Committee of the Party. This provision, however, has also suffered in practice, the last Conference having been held in 1941.

The Conference is composed of representatives (generally secretaries or other officials) of the local organizations. It meets, according to Article 37 of the Party rules, for the discussion

of urgent problems of Party policy. Delegates "are elected at plenary meetings of regional committees, territorial committees and the Central Committees of the Communist Parties of the Union Republics," although the Central Committee of the Communist Party of the Soviet Union is to determine the election procedure and the basis of representation. The Party Conference can replace up to 20 per cent of the members of the Central Committee, but all other decisions must be endorsed by the Central Committee itself.

### **The Central Committee**

Since the Party Congress no longer meets, power seems thrown into the hands of the Central Committee, whose 71 members and 68 alternate members are supposed to be chosen by the former organ. According to the Party rules (Article 36) the Central Committee "guides the entire work of the Party in the interval between Congresses, represents the Party in its relations with other parties, organizations and institutions, sets up various Party institutions and guides their activities, appoints the editorial boards of the central organs under its control and confirms the appointment of the editorial boards of the Party organs of big local organizations, organizes and manages enterprises of a public character, distributes the forces and resources of the Party and manages the central funds." In addition, it "directs the work of the central Soviet and public organizations through the Party groups within them."

This is a task of staggering proportions, involving not just the direction of the Party's own organs but the direction of the government itself; a combination, one might say, of the work of the Labor Party's Executive Committee and the British Cabinet, with the added qualification that in a country where all industry and agriculture are under government direction the job is immensely greater than that of the British Cabinet.

Under any circumstances, such powers would make the Central Committee relatively free from popular control. Its authority over the press means that, in a positive sense, all of the instruments of publicity and propaganda are mobilized in support of its position and, in a nega-

tive sense, that opposing ideas cannot be publicized or discussed. In addition, since its meetings are held in secret, neither the Soviet people nor the rank and file of Party members know what issues are being discussed and what opposing arguments, if any, there are. Under such circumstances there can be no outside influence on nor participation in the decision of these issues. In Western countries parliaments are regarded as an educational device: public debates inform the electorate, and the voters' political intelligence and judgment presumably are developed by the necessity of choosing between alternative proposals and programs. In the Communist Party, in contrast, decisions are made before the issue is publicly known, and the people are "educated" to accept that decision rather than to make it themselves. Political leadership, Stalin told the Eighteenth, and last, Party Congress, is "the ability to convince the masses of the correctness of the Party's policies."<sup>12</sup>

Even the Central Committee, however, is not the final source of authority, for it, too, meets too infrequently (four times a year according to the Party rules) and is too large a body to guide the policy of the Party and, in particular, of the government in any detail. Even the British Parliament, which is in almost continual session, is unable to perform the real work of policy-making and legislating, and in the Soviet Union this work is far more extensive than in Great Britain. Moreover, though decisions are customarily issued in the name of the Central Committee, the fact that during the 1930's more than half the members of that body were forcibly purged suggests that actual power resides elsewhere.

### **The Politburo**

Real authority, in fact, rests in a much smaller body, the Politburo, whose presiding officer, the Secretary-General, is the most important member of the Party. Within this body the most important decisions on policy are made, and if anywhere in the Party there is freedom of discussion it must exist here. Its meetings, of course, are secret, and there is no way of checking on conflicting reports concerning the way in which de-

<sup>12</sup> *Problems of Leninism*, p. 653.



cisions are made. Some commentators insist that there is, in fact, a great deal of disagreement and of frank discussion within this body. Bedell Smith reports a general belief among many Russians that Stalin is overruled, on occasions, in the Politburo. On the other hand, Alexander Barmine, one of the very few who can give us a first hand report of a meeting of the Politburo, declares that "The fiction of voting is retained. . . . Yet everyone knows that there is only one boss."<sup>13</sup> Others note that at international conferences Stalin (the Secretary-General) has been able to commit his government promptly, without consultation, to important policies, an action which similarly suggests that he is in a position to dominate the decisions of the Politburo.<sup>14</sup>

The two reports are not necessarily inconsistent. It seems likely that Stalin has his way when he chooses to insist upon it, but there may be issues on which he has no opinion (and is willing to be instructed) and issues on which he has no deep conviction (and is willing to be persuaded). This is the more likely because the Politburo apparently deals with a surprising number of small matters, like contracts, as well as with all major policies.

Once a decision has been reached, however, every member of the Politburo gives it his complete support: the Politburo presents a solid front to the rest of the Party (in this one respect not unlike the British Cabinet), and it would be unheard-of for any other Party organ to resist or reject its decisions. Stalin's earlier warning still holds true: "We must never forget that we are a *ruling* Party. We must not forget that any open expression of our differences may reduce our influence in the country—to say nothing of the effect it may have abroad."

The Politburo is not only the center of power in the Party, which means, of course, throughout the whole country; it has the most stable membership of any Party organ. All its members, staunch Stalin supporters, have been for more than a decade in the top positions in the Party. Though one member, Voznesensky, was dropped in 1949, and thereafter completely disappeared from public life, it is commonly said

that the Politburo is a dead-end street from which there is only one exit, the grave.

### Other Central Agencies

The Political Bureau controls the other executive agencies of the Party: the Organization Bureau (Orgburo), which directs the organizational work of the Party; the Secretariat, which conducts current organizational and executive work; and the Party Control Commission, which keeps check on the way decisions of the Party and its Central Committee are fulfilled. Supervision of these agencies gives the Political Bureau, in effect, complete control of the entire Party apparatus. Through the Secretariat and the Organization Bureau it controls appointments to all positions of importance in the Party (although in form the Central Committee endorses these decisions). Through the Party Control Commission it constantly supervises the policies and activities of organizations lower in the hierarchy and takes action against any possible opposition or deviation. Such powers enable it to determine the membership of the Central Committee itself, even though, in form, it is the Central Committee which controls the Political Bureau. Moreover, this control enables the Political Bureau to perpetuate itself (thereby continuing the prerevolutionary practice of co-optation, p. 466), since the Central Committee is in no position to reject its suggestions for the filling of a vacancy.

A remarkably small number of men compose these top Party agencies. The Politburo, members and candidates, numbered eleven in 1939, and twelve in 1951. The Orgburo had nine members in 1939, fifteen in 1946 and ten in 1951. The Secretaries who preside over the Secretariat numbered four in 1939, six in 1949, and five in 1951. Stalin and Malenkov are on all three organs and their more direct contact with and control over the Party's machinery and membership gives them a special advantage over their colleagues.

### Administrative Staffs

In carrying out their manifold and far-reaching functions, the top Party organs depend on administrative staffs which, not surprisingly, are

<sup>13</sup> Alexander Barmine, *One Who Survived*, p. 213.

<sup>14</sup> For a fuller discussion of the leader's powers, see below, pp. 495-99.



## THE INTERLOCKING DIRECTORATES OF PARTY AND STATE IN THE U.S.S.R. (April 1951)

### Central Committee of the Communist Party

### Council of Ministers

**Secretariat**  
(1) Stalin  
(2) Malenkov  
(3) Khrushchev  
(4) Suslov  
(5) Ponomarev

**Orgburo**  
Stalin  
Malenkov  
  
Suslov  
(6) Bulganin  
(7) Mekhlis  
(8) Mikhailov  
(9) Andrianov  
(10) Alexandrov  
(11) Shatalin  
(12) Kuznetsov, V.

**Politburo**  
Stalin  
Malenkov  
Khrushchev  
  
Bulganin  
  
(13) Molotov  
(14) Voroshilov  
(15) Andreev  
(16) Kaganovitch  
(17) Mikoyan  
(18) Beriya  
(19) Kosygin  
(20) Shvernik (Candidate Member)

Stalin, Chairman  
Malenkov, Deputy Chairman

Bulganin, Deputy Chairman

Merkulov, Minister of State  
Control (and head of the MGB)  
Molotov, Deputy Chairman  
Voroshilov, Deputy Chairman  
Andreev, Deputy Chairman  
Kaganovitch, Deputy Chairman  
Mikoyan, Deputy Chairman  
Beriya, Deputy Chairman  
Kosygin, Deputy Chairman

organized very much like a government. One of the most important of these is the Apparatus of the Central Committee, which assists all the top Central agencies but is directly responsible to the Secretariat. Its staff of several thousand experienced and particularly trustworthy Communists is responsible chiefly for personnel and propaganda in all spheres of Soviet life; it has active field staffs, wide sources of information, and considerable authority.

Though shifts in organization are not infrequent, the work of the Apparatus makes certain divisions essential. The Department for Party, Trade Union, and Komsomol Organs is concerned with the functioning of the major mass organizations. The Department for Propaganda and Agitation supervises education, science, and all media for mass communication; it also publishes its own organ, *Culture and Life*, the final arbiter on style and content in the cultural field. The Military Department of the Apparatus operates directly inside the Ministry of Armed Forces, to provide political guidance for soldiers, sailors, and airmen, and to guard their morale. In addition, there are various production-branch departments which operate in agriculture, trade, transportation, and so forth, selecting personnel, distributing propaganda, supervising the work

of local party organs, and stimulating production. It seems likely also that the Apparatus includes a Foreign Department.

The Apparatus has particular significance not only because of its functions but also because it includes some of the most promising of the younger Communists, those who, like its former members, Malenkov, Zhdanov, and Kaganovich, are most likely to be picked for the top organs. But it is only one of the many administrative agencies of the Party, all of which, be it noted, concern themselves not only with the Party membership but with all aspects of life throughout the country. Looking at this vastly complicated mechanism of Party control, which is superimposed on the ordinary agencies of government, it becomes strikingly evident that dictatorships have, in fact, far more intricate and overlapping organizations to manage than have democracies.

### Youth Organizations

Not surprisingly, the Communist Party has a special interest in securing the loyalty of young people, and a graduated series of youth organizations—the Little Octobrists, Pioneers, and Komsomols, or Leninist Communist League of

Youth—associates the great mass of those between the ages of eight and twenty-six with Party programs and discipline. The Little Octobrists, for children from eight to eleven, is directed by members of the Pioneers, whose members are from ten to sixteen, and of the Komsomols which are for those between fourteen and twenty-six. The overlapping of age levels makes membership in two of these groups at the same time possible and thus aids in the integration of their programs. At all stages, naturally, the youth organizations are under the direct supervision of the Party itself.

It is the duty of all three organizations to inspire the youth of the country with devotion to Communist ideals and to harness their energies for the Party's work. Most of the Soviet school population in the lower grades belong to the Little Octobrists; the membership of the Pioneers increased from seven to eleven million between 1934 and 1939, and is probably several million higher now; the Komsomols increased from four million in 1936 to nine million in 1939, and fifteen million by 1945. A rather striking decrease brought its membership to around ten million in 1951.

The Komsomols are, of course, the most important of the youth groups, not only because they are the obvious recruiting ground for the Party, but also because they are looked on as a "transmission belt that connects the Party with the masses and spreads the Party's influence to the masses of youth." From time to time, the Komsomols are organized for particular tasks: to aid collectivization in the early thirties; on the eve of war, to strengthen the defensive capacity of the country; and currently to promote study of science and technology. Komsomols are expected to function with particular activity in the armed forces, and the lack of enthusiasm for Communist aims and policies evidenced among the armed services has been blamed on the inadequacy of their propaganda efforts.

In organization, the Komsomol is patterned on the Party itself, with cells and committees in farms, factories, and all other institutions throughout the country. Here there is plenty of opportunity for ambitious and able, as well as idealistic, young people to prove their devotion to Party ideals, and thus win their way into the Party and to preferment in a chosen career.

## V. SUCCESS OF THE SOVIET PARTY SYSTEM

If one were to repeat, in regard to the Soviet party system, the questions testing the effectiveness of the British and French systems (pp. 68, 308), the Communist Party would appear to be condemned on almost every point. The Soviet system does not give the people a "meaningful and adequate choice both of policies and of leaders." It does not permit the reflection of the desires of the people and of Party members when they are in conflict with the policy of party leaders. The internal organization of the Communist Party is not democratic enough to provide a channel for effective participation in policy-making by the rank and file. If the Party promotes the peaceful settlement of controversial issues, it is rather through the prevention or suppression of controversy than through the reconciling of divergent opinions. And if the Party is an effective instrument for carrying out the judgment of the voters, there may be considerable question as to the significance of a judgment which is the result neither of discussion nor of free choice.

To make these statements, however, is to apply the standards of Western democracy to a system which, in spite of occasional nods to popular participation or freedom of discussion, is concerned primarily with other goals: the "defense of the socialist system" against its opponents, the education and inspiration of the masses, the provision of leadership for industrialization of the country and for collectivization of the farms, and the forging of an instrument for both the economic and the political government of the country in conformity with Marxist-Leninist-Stalinist principles.

Judged by such aims, the Communist Party has been a peculiarly effective instrument. To the Westerner it undoubtedly will seem an undemocratic instrument; but to the person who believes, as the Communist believes, that social and economic change are the most important considerations and that the Party's leaders have an infallible, scientific knowledge of what is true and just, insistence upon freedom of criticism and opposition within the Party must appear wicked if not irrelevant.

## CHAPTER 4

# The Soviets

### I. THE NATURE OF THE SOVIETS

Side by side with the pyramid of Communist Party organizations in the U.S.S.R., and controlled by them, is a pyramid of governmental organizations known as the soviets—beginning with local soviets, which are roughly the equivalent of town or village councils in the United States, and culminating in a Supreme Soviet which corresponds roughly to the United States Congress or the British Parliament.

Originally, however, the system of soviets was intended to be something quite different. It was regarded as an outstanding achievement of the October Revolution of 1917 that the soviets were substituted for legislative assemblies of the traditional type. According to Lenin and his followers, parliaments in Western countries were simply show-windows to delude the masses. There the representatives chosen by the people might talk to their hearts' content, but behind the scenes real power rested in the hands, not of the parliamentary talkers, but of the bureaucracy, the army, and the police force. Lenin could quote Marx to the effect that what was needed was "not a parliamentary but a working corporation, legislative and executive, at one and the same time." The masses, if they were to rule, must be the executive as well as the legislature. "Our aim," Lenin wrote, "is to draw *the whole of the poor* into the practical work of administration. . . ." The soviets were the instrument by which this objective was to be realized.

The word "soviet" in Russian is simply the word for council. It acquired special significance, however, during the Revolution of 1905 when Councils or Soviets of Workers' Deputies sprang up spontaneously in many Russian cities

and provided the leadership for the revolutionary movement. These were organizations of the workers themselves, and to Lenin they suggested both a pattern for future revolutionary action and a type of organization through which the mass of the workers might participate directly in political life. Moreover, the experience with the soviets captured the popular imagination. In spite of their suppression in 1905 the memory of their leadership persisted, and when the February Revolution of 1917 occurred it was only natural for Soviets of Workers' and Soldiers' Deputies to be formed throughout the country.

At this time the Bolsheviks were still pledged to the establishment of a parliamentary form of government; but Lenin, upon his return to Russia in April, denounced this policy. "The Soviet of Workers' Deputies is the *only possible* form of revolutionary government," he told his followers. "To return to a parliamentary republic from the Soviet of Workers' Deputies would be a retrograde step." There must be "not a parliamentary republic . . . but a republic of soviets of Workers', Agricultural Laborers' or Peasants' Deputies throughout the country, from top to bottom."<sup>1</sup> The slogan of the Communists was to be "All Power to the Soviets."

In part Lenin's decision resulted from tactical considerations. The Bolsheviks could not hope to win control of a popularly elected parliament, chosen by all classes of the population. But they could hope to win control of the soviets, since they were composed predominantly of the urban working class, where the Bolsheviks had their greatest strength. By the time of the October Revolution the Bolsheviks actually succeeded in winning control of the All-Russian

<sup>1</sup> Lenin, *op. cit.*, Vol. VI, p. 23.

Congress of Workers' and Soldiers' Deputies, and by insisting that only the soviets could govern, Lenin, in effect, insisted that only the Communists could govern.

In addition, the soviets were hailed by Lenin as a special instrument, immensely superior to bourgeois parliamentarism, for drawing "in the freest, broadest, and most energetic manner, all the masses into the work of government. . . . It is a power that is open to all, that does everything in sight of the masses, that is accessible to the masses, that springs directly from the masses; it is the direct organ of the masses and of their will."

### *The Soviets Before 1936*

Almost immediately, however, the Bolsheviks faced the problem which has remained at the heart of their relations with the masses: how to win popular support and at the same time maintain Party control. Concentration of authority in the period of War Communism meant similar concentration within the Soviets also. Lower soviets were made responsible to higher ones; power came to be exercised by executive committees rather than by the members of the soviets as a whole. But it was still more significant that the Eighth Party Congress in 1919 decreed that Party fractions under strict Party discipline should be set up within each soviet with the aim of unifying and subordinating the whole structure of the soviets to the single will of the Party. "The Russian Communist Party must win for itself undivided political mastery in the Soviets," it declared, "and practical control over all their work."

Centralization of control led directly to a loss of mass support for the soviets evidenced most forcefully by the Kronstadt rebellion of 1921 (p. 456). And despite some relaxation of administrative controls during the twenties, the soviets never regained their initial position as popular agencies. They provided no adequate contact between the Party and the masses during the tense period of collectivization of agriculture. "The Soviet organs of the proletarian dictatorship which ought to be in the center and the leadership of every revolutionary undertaking," it was declared in 1930, "drag at the tail of this vast movement of social change."

Thereafter the Party embarked on a more

active policy of stimulating, as well as leading, the soviets. Great emphasis was placed on getting the maximum number of people to vote in elections for the soviets; at least a minimum number of questions were required from the floor at soviet meetings. At the same time, Party and administrative controls were tightened so that the soviets became, to a degree, an extension of the Party administrative structure.

Though mass participation was one of the major purposes of the structure of the soviets, there were formal limitations upon it in the higher soviets until 1936. Election to the All-Union Congress of Soviets, "the supreme authority of the U.S.S.R.," was indirect, delegates being chosen as representatives of town and village soviets. Election was also unequal, the town soviets sending one deputy for every twenty-five thousand voters and the village soviets being limited to one deputy for every one hundred and twenty-five thousand inhabitants. Voting was public, by a show of hands, and class enemies (clergymen, employers of labor, those who engaged in trade or lived on their incomes, and former members of the Tsarist police) were not allowed to vote. In addition, the Congress of Soviets met for only a few days every two or more years, leaving little opportunity for continuous and effective participation in government even by these indirectly chosen representatives of the masses. In the long intervals between meetings of the Congress, power was delegated to a Central Executive Committee which had two chambers, a Union Council and a Council of Nationalities. This body was supposed to meet three times in the interval between Congresses.

### *The Constitution of 1936*

The new Constitution of 1936 introduced drastic changes as far as elections and organs were concerned. As Stalin explained, the socialist system had now been unshakably established in all spheres of the national economy. The capitalist, landlord, and kulak classes had disappeared, and there was a new peasantry which, in its great majority, was a collective farm peasantry.

Under this Constitution suffrage became universal. With the exception of the insane and

of criminals, who were deprived of electoral rights, every citizen, regardless of social origin or past activities, was guaranteed the right to vote. Each vote was to count equally—urban areas no longer having any advantage over rural. Moreover, the voting for deputies was to be both secret and direct.

The new Supreme Soviet consists of two chambers, a Soviet of the Union and a Soviet of Nationalities, the former representing the country by population and the latter giving special representation to federal areas.

If the changes in the Constitution were, in form, an advance toward democracy, they were also, somewhat ironically, a departure from the "soviet" ideal and a move in the direction of the parliamentarism and the separation of powers which Lenin had denounced. Where the Congress of Soviets and the Central Executive Committee had been described in the Constitution of 1923 as "the supreme authorities of the U.S.S.R.," combining legislative, executive, and administrative authority, legislative power now was separated from administrative. According to Article 32 of the new Constitution, "The legislative power of the U.S.S.R. is exercised exclusively by the Supreme Soviet of the U.S.S.R." According to Article 64, "The highest executive and administrative organ of state authority of the Union of Soviet Socialist Republics is the Council of Ministers of the U.S.S.R." The same distinction is made in the case of the Union Republics; and it is only on the lowest level of government organs "in territories, regions, autonomous regions, areas, districts, cities and rural localities" that the "Soviets of Working People's Deputies" direct the administrative work of the areas and "adopt decisions and issue orders within the limits of the powers vested in them by the laws of the U.S.S.R. and of the Union Republic" (Article 98).

## II. SOVIET ELECTIONS

### *Electoral Procedure*

In spite of the clarity of the constitutional provisions, there is no part of the Soviet political system which is more confusing to the foreign observer than the electoral system. As one reads the Soviet Constitution and electoral laws, one

finds little difference between their provisions and those of Western democracies. The Constitution guarantees universal, direct, equal, and secret suffrage, regardless of race, religion, or sex. And while it is true that the Constitution recognizes only one political party, both the Constitution and the electoral laws imply that the voter will, nonetheless, have a choice of candidates. Stalin himself, in a famous interview with Roy Howard in 1936, indicated that there would be lively electoral contests based on a discussion of personal qualifications. The unfit would be crossed off the electoral lists, and only the best would be nominated.

It has been suggested that in this statement Stalin meant to indicate, despite specific provisions to the contrary in the "Regulations Governing Elections to the Supreme Soviet of the U.S.S.R." of October 11, 1945 (Articles 79, 88, 105), that the contest would precede the nomination rather than the election and that only one candidate would actually be placed in nomination in each electoral district; and this, in fact, has proved to be the practice. The right to vote in the U.S.S.R. is the right either to vote for the only candidate on the ballot, or to cross out his name and vote for no one at all, but not to vote for an alternative candidate.

### NOMINATIONS

Whatever choice of representatives the voter has, therefore, must be exercised, not in the process of electing but in the process of nominating. Unfortunately, this latter process is still somewhat obscure. According to the Constitution, candidates may be nominated by Communist Party organizations, co-operatives, trade unions, youth organizations, and cultural societies (Article 141). The election regulations add that such nominations may be made both by local branches and by the central organizations themselves and also in "general meetings of workers and other employees in enterprises, of servicemen in army units, general meetings of peasants in the collective farms, villages, and volosts and of workers and other employees of state farms." Candidates need not live in the areas from which they hope to be elected, and according to Article 3 of the election regulations of 1945, "Any citizen of the U.S.S.R. who has reached the age of 23 [previously 18], irrespec-

tive of race or nationality, sex, religion, educational and residential qualifications, social origin, property status, or past activities, may be elected deputy to the Supreme Soviet of the U.S.S.R."

As a matter of practice, nominations generally are made in mass meetings of factory or farm workers or of the inhabitants of an electoral area rather than by the organizations designated in the Constitution. Unlike the elections, voting at this time is public, and the nominations as a rule are made by acclamation.

There remains the question of how the names placed in nomination are reduced to the single name which appears on the ballot. Apparently, there are two answers. First, the leaders of the appropriate Communist Party organization generally decide in advance which candidate they wish to see nominated in a particular area. The first meeting at which a candidate may be nominated ordinarily is held at the largest factory in the district. Here it is easy enough to have the name put in nomination (usually by a non-party worker, to maintain the appearance of spontaneity) and to have the name accepted by acclamation. If there are several meetings in a single district, it is natural to follow the lead of the first meeting. The Party members at each meeting, or within each organization, act as a group, and in this as in other respects assume the position of a "guiding nucleus." The fact that voting is public removes one of the safeguards against retaliation granted in the final election. It is now popular for meetings to place in nomination several of the most prominent national leaders, beginning with Stalin and Molotov, in addition to the local candidate. Candidates for the Supreme Soviet, however, may run in only one electoral area, and the consequent withdrawal of the nationally prominent names from every electoral area but one generally leaves a single name of a local candidate in the others.

There may be occasions in which more than one name is placed in nomination, as, for example, in those rural areas where the Party is weak and its guidance less effective. At such times there is a second device for reducing the number of candidates. In the interval between the registration of candidates (thirty days before the date of the election) and the printing

of the ballots (fifteen days before the election) the election commissions, in consultation with Party leaders, remove the excess names.

#### ELECTION COMMISSIONS

There are four types of election commissions: a Central Election Commission for the entire Soviet Union (whose members are approved by the Presidium of the Supreme Soviet); election commissions in Union and autonomous republics, autonomous regions, and national areas for elections to the Soviet of Nationalities (whose members are approved by the Presidiums of the Supreme Soviets of the Union and autonomous republics and the executive committees of the Soviets of the Working People's Deputies in the autonomous regions and national areas); area election commissions for elections to both the Soviet of the Union and to the Soviet of Nationalities (approved by the presidiums or executive committees of the appropriate soviets); and precinct election commissions (approved by the executive committees of the appropriate soviets).

On every election commission there are representatives of the Communist Party, trade unions, co-operatives, and youth, cultural, technical, scientific, and other organizations; but both through the influence of the Party within these organizations and through the requirement that members be approved by governmental agencies, the Party is able to exercise ultimate control.

Candidates are registered with the area election commissions, but it is the higher election commissions (for example, the election commissions in the republics) which make the final decision as to which candidate shall run in each area. Their aim is to have in each Union and autonomous republic, autonomous region, and national area a set of candidates characterized by diversity of occupation, sex, nationality, and achievement. And the result is a most unusual type of representation. The candidates are not men and women who make a profession of politics, but rather men and women who have distinguished themselves in the greatest variety of social, economic, artistic, and even military achievements. In a typical pre-election report in the *Soviet Information Bulletin* of November 13, 1945, it was announced:

In the Ukraine, for example, candidates have been nominated by trade unions and Communist Party organizations, at mass meetings of workers, farmers, office employees and scientists.

Among the nominees are Praskovya Angelina and Anna Bidnenko—two women whose names are famed throughout the land. Angelina is especially popular among all tractor drivers for she was the first Soviet woman to drive a tractor 15 years ago. . . . Anna Bidnenko, the other farm woman, is a member of one of the farms at Kiev Region. Her record potato crops have brought her fame. . . .

Other candidates for the Ukrainian Election Commission include twice Hero of the Soviet Union, Major General Sidor Kovpak, a famous partisan; Ivan Korobov, one of the oldest blast furnace men in the country and head of a famous family of metallurgists; Hero of Socialist Labor Alexander Polkussai, celebrated locomotive engineer and Ivan Ishchenko, scientist.

Similarly, it was reported that in the Lithuanian Union Republic "candidates include a farm woman, a professor, a schoolteacher, an old trade union functionary, two Communist Party leaders and one representative from the Young Communist League. . . . The Azerbaijan list includes a drill foreman, a woman collective farmer, noted for her cotton picking records, a poet, an Academician and a major general."

### **The Election Campaign**

Even before the individual candidates have been nominated, the election campaign begins. Every effort is made to educate the voters in the aims and achievements of the government in both domestic and foreign policy. Newspapers carry elaborate statistics on the accomplishments of the government. The radio and films devote themselves to election news and to dramatizations which will arouse enthusiasm for the government and its objectives. Pamphlets explain the structure of the government and describe, in simple question and answer form, the principal points in its program. Meetings are arranged with special features, such as music, contests, races, to attract the crowds. Museums have special exhibits. Speeches of prominent Party leaders are broadcast and reprinted in millions of pamphlets. Campaign headquarters are set up in the voting precincts, replete

with literature and lectures and entertainment. Organizations designate official campaigners to head their activities, arranging meetings and directing the work of thousands of other campaigners who carry on a house-to-house canvass, explaining the structure of the government, the nature of its program, the technicalities of the election laws—and, of course, getting out the vote. On the election day itself cars carry invalids to the polls, and precincts are set up on trains, ships, in hospitals and homes for the aged, so that everyone may vote. Altogether it is not an exaggeration to say, in the words of the *Soviet Information Bulletin*, "No country of the world has known such election activity on the part of the voters as is manifested in the Soviet Union."

There remains, however, the question of why such activity is necessary. There is never any doubt as to who will win the election, and the results of the election do not affect the government in any way. In appearance, therefore, the voting seems little more than an artificially created demonstration of enthusiasm for the existing government.

To the heads of the Soviet government, this purpose is quite sufficient. The elections provide an opportunity for the rousing of popular enthusiasm for its program and goals. The speeches of the candidates explain the purpose of the government. The voters see and hear the most important officials of the state. Mass meetings and mass propaganda build a fresh loyalty to and confidence in the Party and its leaders. The people are made to feel that their support is important and that the government is concerned with their needs and their approval. Thus the campaign is, in part, an education for the voter and, in part, a device for building solidarity and devotion.

For this reason it is important that every person vote and that the vote be unanimous. If any sizable opposition appeared, or if there were many abstentions, it would be a sign that dissatisfaction and criticism were possible, that solidarity and devotion actually were not universal. The election would reduce rather than enhance the prestige and strength of the government. To the outside world the overwhelming vote for the official "bloc of Communist Party and non-Party candidates" (more than 98 per



cent in 1937 and more than 99 per cent in 1946 and again in 1950) is simply a proof that the voters had no real choice. But to the Russian people (who, it must be remembered, were never accustomed to free elections in the Western sense), the elections are an impressive demonstration of national unity and loyalty.

Occasionally the pretense that the voters have a real choice may be maintained, as when Stalin said in his pre-election address in 1946:

I consider that in an election campaign the electors are sitting in judgment on the Communist Party as the ruling party. And the election returns will constitute the electors' verdict. (Laughter, applause.) The Communist Party of our country would not be worth much if it feared to be criticized and checked upon. The Communist Party is prepared to accept the electors' verdict.

But Molotov's pre-election speech came closer to catching the spirit in which an election is waged when he said:

In its policy the Party sets us the correct course for our work. And we in authority in local and central organizations must prove by our deeds that we know how to work. . . .

We have every ground to expect that at the elections to the Supreme Soviet, our people will again show confidence in the Bolshevik Party and will unanimously support the candidates of the Stalin bloc of Communist and non-Party workers, peasants and intellectuals. . . . So let the new elections serve to cement our people's unity still further and to promote our further advance under the tried leadership of the Bolshevik Party and our great beloved Stalin.

### III. THE SUPREME SOVIET

Two things would probably impress anyone who attended a session of the Supreme Soviet after visiting the House of Commons and the French National Assembly: the difference in physical surroundings and the difference in the character of the membership.

The auditorium in which the Supreme Soviet meets (for the two chambers often sit together to elect officials, to listen to speeches, or to discuss proposals), like the rooms in which the House of Commons and the National Assembly meet, indicates something of the spirit in which

the work is done. In the House of Commons the rows of benches facing each other imply that there will always be two opposing groups, while the smallness of the chamber makes it easy to carry on discussion and to engage in a running debate marked by easy and informal participation from all parts of the room. In the French National Assembly the fanlike arrangement of the amphitheater encourages the deputies to range themselves from left to right according to their political ideas. But the auditorium in which the Supreme Soviet meets allows no such differentiation. It is a large hall with many rows of desks and chairs. There is no sweep from left to right as in France, and there are no distinctive places for supporters or opponents of the government as in Great Britain. The members constitute a solid mass, as is appropriate in a country in which there is but one party and in which all delegates are assumed to be supporters of the government. Moreover, the delegates sit as an audience, ready to listen to and applaud the statements from the platform, not as an active group of legislators who may rise informally in their places to catch the eye of the presiding officer and take part in the debate.

The deputies, too, are very different from those who sit in Parliament or the National Assembly. There is a higher proportion of women, and the many delegates from the minority nationalities, dressed in the costumes of their own lands, add color and variety. There is also a broader representation of the many types of people who make up the Soviet Union: farm women, engineers, miners, artists, soldiers; and in this sense the Supreme Soviet is an impressive symbol of social and national equality.

It is, in fact, as a symbol that the Supreme Soviet is chiefly important. The delegates who represent so well the varieties of nationality and occupation are often, by that very reason, less well fitted to take an active part in the technical and extremely rigorous work of framing and criticizing legislative proposals, of participating in debate, or even of understanding the meaning and consequences of the measures they are asked to approve. Praskovya Angelina's training as a tractor driver and Anna Bidnenko's experience in raising potatoes, however laudable in themselves, do not fit them as critics of for-

eign policy, the budget, or the provisions of the next Five-Year Plan.

In addition, the infrequency and brevity of the meetings prevent the acquisition of the experience needed for effective participation. Members are expected to spend most of their time in their home districts, carrying on their regular occupations and remaining close to the masses. In a sense, it is more important for them to explain the program and purposes of the government to the people at home than to explain the ideas of the people at home to the government. The members are honored by the distinction of being chosen as delegates, and often they are thrilled by the trip to the capital city and the opportunity of seeing and hearing the greatest Party leaders. They receive instruction in the policies and program of the government, and they carry back to their neighbors the information they have received, and communicate something of the enthusiasm aroused by participation in the Soviet pageant. Often the task is carried out with great earnestness and idealism. But it is a task very different from legislating, even in the restricted sense in which that term can be applied to the work of the House of Commons.

### *Structure and Organization*

The membership of the two chambers of the Supreme Soviet is almost equal in number. However, since the basis for the election of members is a shifting one, dependent upon changes in population or on the number of federal units, the membership of neither body is stable: in 1937 there were 569 deputies to the Soviet of the Union and 574 to the Soviet of Nationalities; in 1946, the succeeding election, there were 682 and 657 members, respectively; in 1950, 671 and 631 members, respectively. Both chambers are elected at the same time and, unless dissolved, are supposed to serve four-year terms.

Unlike the American Congress and the British Parliament, the two chambers often meet and work together; each time a new piece of legislation is introduced, the decision must be made whether the chambers will consider it jointly or separately.

The two chambers are equal in power. Laws

must be passed by a simple majority of both houses, and a two-thirds vote of each house is necessary to amend the Constitution. In case of disagreement the Constitution provides for a conciliation commission with equal representation of both houses; if the conciliation commission cannot agree, the two chambers are to reconsider the question; and if they still cannot agree, the Presidium of the Supreme Soviet is supposed to dissolve them and call new elections. Actually, of course, the controlling position of the Communist Party means that there is no disagreement; but the constitutional recognition of the possibility and legitimacy of disagreement is sometimes regarded as a hopeful sign of potential toleration of divergent opinions.

### *The Presidium*

Many powers which in other countries would be exercised by the legislature belong in the U.S.S.R. to the Presidium of the Supreme Soviet, whose powers are, in effect, greater than those of the Supreme Soviet itself. The Presidium consists of a chairman, sixteen vice-chairmen, a secretary, and fifteen other members, all of whom are elected in a joint session of the two chambers. Among other powers, it has authority to interpret the laws of the U.S.S.R. (and a body which interprets the law often, in effect, makes it); to issue "decrees" (which frequently are indistinguishable from laws); to dissolve the Supreme Soviet in case of disagreement between the two chambers; to conduct referendums; to annul decisions and orders of the Councils of Ministers both of the Soviet and of the Union Republics "in case they do not conform to law"; to appoint and remove the commanders of the armed forces; to appoint and recall representatives of the U.S.S.R. abroad; and to ratify and denounce treaties. In addition, in the rather long periods between sessions of the Supreme Soviet, the Presidium appoints and removes members of the Council of Ministers on the recommendation of the Prime Minister and subject to later confirmation by the Supreme Soviet. It may also proclaim a state of war in case of invasion or in order to carry out a treaty obligation (Article 49).

At meetings of the Supreme Soviet the members of the Presidium sit on a platform facing the audience of delegates. The Chairman of the Presidium is the titular head of the Soviet government, corresponding to the King in Great Britain or the President in France.<sup>2</sup>

### **Legislative Commissions**

Each chamber has a system of commissions identical with that of the other, but the commissions, although specialized, are fewer in number than those of the French or American legislatures. The four regularly appointed in each house are the commissions on Credentials, Legislative Motions, the Budget, and Foreign Affairs.

The Commission on Credentials determines the validity of the election of members of the Supreme Soviet, and its work accordingly has little relation to policy-making. The chief concern of the Legislative Motions Commission is with the careful drafting of proposed legislation; bills may be submitted to it or to the Budget or Foreign Affairs Commissions for further study, and these commissions are expected to report their findings. In addition, they may themselves recommend to the Council of Ministers that certain bills be introduced, and they may be requested by the Supreme Soviet or the Presidium to draft legislation on certain subjects. However, all legislation need not go through committee, and in some cases consideration by a commission is not regarded as necessary.

The most important and active of the commissions is the Budget Commission, since, in a socialist economy, the entire economic life of the country (and not just the normal course of the government) is dependent upon the decisions of the budget. Thus it is the budget which determines not only the tax rate and expenditures on public services but also which industries are to be expanded, and how much of the national revenue shall be devoted to capital expansion, how much to the production of goods for consumers, and so forth. In addition to examining budgetary proposals, the

Budget Commission supervises the way in which provisions are carried out.

So far as one can judge the practice, the Budget Commission apparently approves the general budgetary proposals presented by the government but suggests amendments in detail and criticizes the way in which different ministries perform their tasks.

In addition to the standing commissions, the Constitution permits the appointment of commissions of investigation and audit when the Supreme Soviet thinks it necessary to investigate any matter.

All commissions have the power to summon witnesses, hear testimony, and demand information and documents from government officials. The chairmen of the commissions are chosen by the appropriate chamber, but the vice-chairmen and secretaries are chosen by the commissions themselves.

### **Functions of the Supreme Soviet**

#### **ELECTORAL COLLEGE**

The Supreme Soviet has a more impressive electoral function than does the legislature of any other major power. Its two chambers in joint session elect the Council of Ministers, the Presidium, the Supreme Court, Special Courts, and the Procurator-General of the U.S.S.R. There is some question, however, as to the extent of its real authority. The fact that the Supreme Soviet in its session of March 19, 1946, elected some one hundred and eighty-two officials in an hour and a quarter suggests that the election is a purely formal certification of appointments already decided upon by the Communist Party's "guiding nucleus."

#### **CRITICISM AND SUPERVISION OF THE ADMINISTRATION**

Like parliaments in Western countries, it is recognized that the Supreme Soviet has an important function as critic of the government, but the scope and method of criticism in these two types of legislatures are, not unexpectedly, very different. In the Supreme Soviet there is, of course, no organized opposition with the special function of criticizing: opposition parties are banned, and those deputies who are not

<sup>2</sup> For further discussion of the Chairman, see below, p. 500.

members of the Communist Party (there were, for example, 106 in the Soviet of the Union and 148 in the Soviet of Nationalities in 1946) are not allowed to meet as a group or take a common stand. As a result, the only organized criticism must come from the Communist Party itself, and since the leaders of the Party direct both government policy and the activities of Communist delegates to the Supreme Soviet, criticism necessarily becomes somewhat artificial. It is never directed against the highest Party officials, and it never questions a basic policy of the government. But it may be directed against lesser officials for failure to carry out the policy of the government or for inefficiency in administration.

Such criticism appears chiefly to be the work of the Budget Commission. For example, on October 16, 1946, its chairman criticized vigorously the Ministry of the Coal Industry for the Western Regions, the Ministry of the Coal Industry for the Eastern Regions, the Ministry of Light Industry, the Ministry of Fisheries, and the Ministry of Cinematography for such things as "unproductive expenditure," "unsatisfactory employment of machinery," and high cost of production. The Ministry of Finance and the Ministry of State Control were also criticized for not preventing "thefts and embezzlements," and each of the ministries criticized was called upon to explain what measures it was taking to terminate and prevent the recurrence of such evils. There have even been cases in which ministers were replaced following such criticism. Yet none of these attacks could conceivably be interpreted as a criticism of Stalin or his leading associates, or of the Communist Party (the deputies who make the criticisms are themselves Communists), or of government policy, as distinct from the way in which it was being administered. Certain deputies joined in the criticism from the floor; their criticism, however, apparently followed a fairly uniform pattern of praising the budgetary plans in general while criticizing its administration in a local factory or office.

In short, the highest leaders of the Party (and therefore of the government) never undergo the kind of searching, biting, intensive criticism to which their counterparts in Great Britain and France are exposed. Yet the existence of

even a limited amount of criticism may provide a precedent, at some future time, for the expansion of the practice of free criticism and debate even within a one-party system.

#### EDUCATION AND INSPIRATION

One of the obvious purposes of the meetings of the Supreme Soviet is to inspire the delegates and to educate both them and their constituents. In addition to impressing the humble delegates who attend from afar, the sessions provide an excellent forum from which the Party leaders can address not only the delegates but the entire country. The press and the radio report faithfully and at length the speeches, the plans, and the discussion. During meetings of the Supreme Soviet the attention of the whole country is centered upon it, and the plans and purposes of the government in this way become familiar to the entire nation.

Education in this sense, of course, is very different from the education at which Western parliaments aim. It is like His Majesty's "Gracious Speech" in Great Britain—with the discussion and debate cut off. It is not education in the sense of having the public informed, through debate, of everything which can be said against a program as well as in its favor, of developing the knowledge and judgment of the citizen through the clash of ideas. Rather it is a set of authoritative pronouncements which aim at publicizing the details of a program to which all citizens are expected to give joyful and unanimous support.

#### LEGISLATION

Article 32 of the Constitution of 1936 declares that "the legislative power of the U.S.S.R. is exercised exclusively by the Supreme Soviet of the U.S.S.R." In reality, however, the Supreme Soviet suffers from all the difficulties which afflict other parliamentary bodies: there is an enormous burden of highly technical legislation and too little time for adequate discussion and study, and the members of the legislature are not sufficiently skilled and experienced to deal with the inevitable complexities and technicalities.

In fact, the Supreme Soviet suffers from these difficulties in a more extreme form. In Great Britain, even under a Labor government, most

economic activity is still in private hands, and every decision affecting it need not be made by Parliament or the civil service. But in the U.S.S.R. all industry and agriculture must be directed by the state. An infinite number of decisions, which in other countries would be made by private individuals, burden the government; any adequate discussion of the policies to be followed in every sector of the economy would require far more time than does the legislative business of Great Britain and France.

Yet the Supreme Soviet has far less time in which to accomplish its work. The House of Commons and the National Assembly are in almost continuous session; the Supreme Soviet meets for only a few days twice a year. It is impossible for any large proportion of the delegates (of whom, in a joint session, there are more than 1,300) to speak or even to find time for a detailed examination of the proposals, even assuming that they had the technical training and experience needed for the work. Thus it is only natural for members to take the advice of their revered Party leaders and to vote by acclamation for every proposal.

### *Procedure in the Supreme Soviet*

Each of the houses of the Supreme Soviet elects a chairman, who presides over its meetings, and four vice-chairmen. When the two houses meet in joint session, the chairmen preside alternately.

At the beginning of each new session the Supreme Soviet adopts an agenda, and then proceeds to elect the Credentials Commission to report on the election of members of the Supreme Soviet. According to a typical agenda, it then elects the other permanent commissions, confirms the decrees issued by the Presidium since the last meeting of the Supreme Soviet, and, when appropriate, elects the Presidium, the Council of Ministers, the Supreme Court, the Procurator-General, and any special commissions.

With these formalities out of the way, the Supreme Soviet can devote itself to its legislative duties. Ordinarily a bill is proposed by the member of the Council of Ministers within whose department the legislation falls, although all deputies have the right to introduce bills.

Once introduced, the bill may be referred to the appropriate commission, which presents a report; or it may be considered directly. In either case, deputies on the floor may suggest improvements. At the conclusion of the debate, the appropriate minister indicates which suggestions he is willing to accept and which he is not. The measure as modified is then accepted unanimously, in a public vote.

On the surface, this procedure may not seem too different from the procedure in the House of Commons. There, too, the Ministry is always in control, and a minister introduces and closes the debate and indicates what concessions the Government is willing to make. Moreover, a British Ministry which invokes party discipline is almost certain to have its way.

There is, however, a great and important difference in spirit. The Ministry which introduces a bill in Great Britain knows that it is going to be criticized and that the Government has no power to turn the flood of criticism on and off. When the vote is finally taken, and if party discipline is invoked, the Government will be victorious; but it knows, too, that it will face in the not-too-far-distant future a contested election and that any refusal to amend its measures to meet the criticisms of the Opposition will provide its enemies with ammunition for the coming campaign. Thus it acts under the influence of psychological restraints for which there is no equivalent in the Soviet system. In a very real sense, it is the discussion and not the taking of a vote which is the heart of parliamentary life in Great Britain and which makes political democracy a reality.

There is also a fundamental difference in the extent of the lawmaking activity of the Soviet and British legislatures. In spite of the constitutional guarantee of exclusive legislative power to the Supreme Soviet, most legislation actually is passed by the Presidium (under the title of "decrees") or by joint action of the Central Committee of the Communist Party and the Council of Ministers (under the title of "decisions" or "orders"). This development is all the more strange because of the fact that Stalin, at the time of the adoption of the Constitution of 1936, rejected a proposal to give the Presidium the right to pass provisional acts of legislation, saying, "It is time we put an end to a situation

in which not one but a number of bodies legislate. Such a situation runs counter to the principle that laws should be stable. . . . Legislative power in the U.S.S.R. must be exercised by only one body, the Supreme Soviet of the U.S.S.R.” In spite of this statement, the Presidium has not

only adopted decrees having the force of law but has, as we have seen, changed the provisions of the Constitution itself. Yet in fact it makes little difference since the Presidium, Supreme Soviet, and even the Constitution, are clearly subordinate to the ruling power of the Party.

## CHAPTER 5

# The Soviet Executive and Political Leadership

The men who head the government of the U.S.S.R. must be leaders in two spheres: political and economic. Like the heads of Western governments, they must understand the nature of political power and they must know how to wield it. But in addition they must direct the industrial and agricultural production and distribution of the entire country, and in this respect their job is far more demanding than any which Western politicians have to perform. They must have the qualities of captains of industry as well as of political leaders, combining in a sense the political talents of the Prime Minister of Great Britain with the administrative ability, let us say, of the president of General Motors or United States Steel.

There is one respect, however, in which the task of the highest Soviet leaders is easier than that of their Western counterparts. They need never worry over the criticisms of a hostile press or parliamentary opposition. They need never wonder, as must the American President, whether they can win the approval of the legislature for their program. They share none of the anxiety of the French Premier as to whether they will be in office long enough to carry out their plans. They have none of the worries of a British Prime Minister over the outcome of the next election. They do not ignore public opinion, but they control the instruments which mold it, and they have the power to suppress those manifestations which they do not like. In short, their position is something of a bureaucrat's dream: so long as they control the Communist Party the Soviet leaders can concentrate on the job at hand, free from popular interference and opposition.

### I. THE COUNCIL OF MINISTERS

Officially, the executive power of the U.S.S.R. is vested in the Council of Ministers, which until 1946 was known as the Council of People's Commissars. This Council is elected by the Supreme Soviet and is, in theory, responsible to it. Actually, however, there is no question but that the Supreme Soviet will accept any decision which the Council makes.

The Council of Ministers itself is a large and extremely unwieldy body of nearly fifty members. It includes not only the ministries which customarily appear in other countries (Defense, Foreign Affairs, Finance, Justice, Internal Affairs, Agriculture, Trade, and so forth) but also ministries which in the United States would be the equivalent of great economic monopolies or trusts: the Ministry of the Oil Industry, of the Railways, of the Chemical Industry, and even such subdivisions as the Ministry of Sea Transport and of River Transport, or of the Building Material Industry, and of Light Industry.

Such a council is, of course, too large to be in itself a policy-making body. Moreover, the specialization of the individual ministries raises in an even more pressing form the same problem of achieving integration which, as we have already observed, causes difficulties in the British and French Cabinets. In the U.S.S.R., as in these countries, the solution has been to develop something of an inner or super cabinet composed early in 1949 of the Prime Minister (Stalin) and thirteen deputy prime ministers, nine of whom were members of the Politburo. All but one of the deputy prime ministers were free of specific ministerial responsibilities so that they could devote themselves to policymaking.



Because of the federal structure of the U.S.S.R. there are two types of ministries represented in the Council of Ministers: All-Union ministries and Union-Republic ministries. The All-Union ministries, according to Article 75 of the Constitution, have direct control over the subjects assigned to them everywhere in the Soviet Union. Among these ministries are those concerned with Aircraft, Oil, Rubber, Communications, Shipbuilding, Coal, Chemicals, Iron and Steel, and the Electrical Industry. In contrast, the Union-Republic ministries, according to Article 76, direct the work of the corresponding ministries in the Union Republics (which are roughly the counterpart of American states) but do not, with occasional exceptions, themselves engage in direct administration within the republics. In this sense, the Ministries of the Union Republics act as agencies of the central government rather than as autonomous governments comparable to those of American states. Among these ministries are those of Public Health, Food, Building Materials, Agriculture, the Fishing Industry, State Farms, Finance, and Justice.

## II. THE NATURE OF POLITICAL LEADERSHIP

The qualities required for political leadership in the Soviet Union are less easily defined than in Great Britain and France. Although the same man may be at once Prime Minister and leader of the Communist Party, it is the leadership of the Party and not the Prime Ministership which makes him the most important man in the Soviet Union. Moreover, since the establishment of the Soviet government, only two men have held this position and one of these men acquired his position when the Party was a conspiratorial organization of professional revolutionaries and not the governor of one of the greatest countries on earth. There is no reason to believe, therefore, that the only man to come to power since the revolution represents the only possible pattern for acquiring power.

### *Stalin's Career*

Stalin's career in the Party began, of course, in the years before the revolution. Born in

Georgia, he became an active leader in the revolutionary movement following his expulsion from the theological seminary in which he was a student. With the exception of a few short visits abroad, he spent all of his time inside Russia, and although (at the invitation of Lenin) he devoted himself to the development of a theory of nationality, it was as an active revolutionary rather than as a theorist that he distinguished himself. At the time of the revolution, however, he was less well known to the masses of the people than Lenin and Trotsky or even such leaders as Kamenev, Zinoviev, and Bukharin; and his rise to power can hardly be ascribed to his personal fame or popularity. What was important, rather, was the fact that he was appointed, in 1922, to the position of Secretary-General of the Party.

At this time the post was not particularly important, but Stalin saw its potentialities and made the most of them. In this position he held all the threads of Party organization. The files and records of the Party were in his possession; correspondence passed through his hands. The information on which the Central Committee or the Political Bureau acted in making appointments or promotions, came from his office. His work brought him in touch with Party officials throughout the country, and he acquired an unparalleled knowledge of the organization and its membership. Through this knowledge and through the powers of his position, he was able to win complete control of the Party bureaucracy.

In a highly disciplined organization like the Communist Party, the control of lower organizations by the Secretary-General was not too difficult. The man who was patient, painstaking, persistent, and, upon occasion, ruthless, could, almost imperceptibly, come to dominate it, and with it, the country. By placing his supporters in strategic positions, as secretaries of lower organizations and as editors of the Party press, it was easy, in later years, to inspire "spontaneous" resolutions from Party organizations throughout the country in support of his position, to evoke the simultaneous publishing of "spontaneous" editorials and articles praising Stalin's position and denouncing the principles and activities of his enemies, and to elect to Party Congresses delegates who were already committed to the support of Stalin and who would vote to up-

hold him no matter how eloquent the appeals of his opponents. Lenin himself noted, shortly before his death, that "Comrade Stalin, having become Secretary-General, has concentrated an enormous power in his hands. . . ." Following Lenin's death, this power was used with devastating effect.

At the time many foreign observers expected Leon Trotsky to be Lenin's successor. Although he had been late in joining the Bolshevik Party, he had been one of the most conspicuous figures in the revolution, a writer of brilliance, an eloquent orator, and a military organizer who received much of the credit for the victories of the Red armies in the Civil War. Yet because of his control of the machine Stalin was regularly supported by the Party organs, while the Party press undermined the prestige of Trotsky and his allies, pointing up their differences from Lenin in the past, reproaching them for breaches of Party discipline, and playing down or ignoring the arguments they made in defense of their position. Those Party members who were clever did not need to read between the lines in order to see which side had more to offer. Many of those who opposed Stalin at first made humiliating confessions of error, and, later, when some of them showed reluctance to go along with him and his policies, it was all too easy to convict them of inconsistency and disloyalty. Lenin's denunciation of "factions" within the Party could be used against those who continued their opposition and who, barred from the Party press, tried to put out pamphlets or to organize demonstrations of their own. And the Party's traditional emphasis upon discipline and solidarity meant that any group unfortunate enough to be in the minority could be condemned on the basis of its own allegiance to Leninist principles if it attempted to oppose the decisions of the majority.

### *Adulation of the Leader*

By 1929 Stalin had succeeded not only in destroying the power of Trotsky but of every other one of the great leaders of the revolution who did not give him unquestioning support. And it was only at this time, after the battle for power had been won, that Stalin seriously cultivated mass popularity and publicly accepted the hom-

age which goes with the possession of power. His fiftieth birthday in 1929 provided the occasion for an officially encouraged wave of adulation which carried his portrait or bust into every office and schoolroom in the U.S.S.R., which made it customary henceforth for every speech to contain lavish tributes to his genius and guidance, and which evoked the constant public expression of an adoration that in another civilization would be offered only to a divinity. Thus in the Eighteenth Party Congress in 1939 the leaders of the Party, whatever the subjects of their addresses, ended their speeches with praise of the most lavish sort. Zhdanov, who until his death in August 1948 was frequently mentioned as a possible successor to Stalin, was typical when he shouted: "Long live the genius, the brain, the heart of the Bolshevik Party, of the whole Soviet people, of the whole progressive and advanced humanity—our Stalin!" Mikoyan, a member of the Politburo, proclaimed Stalin to be "a leader of the highest stamp. He is a mountain eagle, fearless in struggle, boldly leading the Bolshevik Party and the Soviet people onward over paths untrod to the complete victory of communism." Krushchev, another Politburo member, hailed him as "the towering genius of all humanity" and Beriia, the head of the political police, as "that greatest genius of mankind."

Such tributes are not restricted, however, to the expansive mood of party meetings. Every organization and individual, regardless of interest or activity, joins in the chorus of praise. If the quota of agricultural or industrial production is exceeded, the very workers who have exceeded their quota thank Stalin for the success of their efforts. Children thank him for their schools. Teachers greet him as "our wise leader and teacher, greatest scholar of our epoch." Soldiers thank him for their victories. The Church itself thanks him for his leadership. Any failure to conform would mark the delinquent individual or organization as clearly as a public cry of "Down with Stalin."

Stalin himself, it should be noted, does not appear publicly to encourage the wave of adoration. He repeatedly insists that when he speaks it is only as the agent of the Central Committee of the Communist Party. But if Stalin questions his own leadership, he is the only person in the U.S.S.R. to do so. And with or without his

approval, the universal adoration serves an extremely practical political purpose.

It is often pointed out that the Russian people have always been accustomed to take orders from a leader. Before the revolution the Tsars, too, were hailed as the fathers of their people and the chosen of God. The paying of similar homage to the leader of the Communist Party is a gratifyingly easy way of using this habit of devotion and reverence for a very different purpose. Especially in the critical years of the first Five-Year Plan and the collectivization of the farms, it was claimed that a nation of millions of uneducated peasants could not easily understand the aims of the Communist Party and would not sacrifice and struggle to put them into effect. Their habitual obedience to an autocratic ruler, however, could be utilized by the new governors. Even in more advanced countries a human being often can symbolize a set of political ideas and policies and make them understandable to the masses of the people far better than any program, no matter how simply and clearly stated. Moreover, the belief in the ruler as a good, wise, and all-protecting father responds to a very natural human desire for security amidst the perils and uncertainties of modern existence (p. 124). The constant reassurance that Stalin was watching over the country, that he was wise and strong and vigilant and good, helped to build a loyalty to the government and a willingness to accept its decisions as righteous and just. It was not necessary to explain in detail the justification for every shift in policy or every new demand; the fact that the all-wise Stalin declared it to be necessary was enough. Thus the freedom of action of Soviet leaders in the making of policy was facilitated by this all-pervading reverence and trust.

There is another political consequence of great importance. The object of such adulation inevitably holds a power which is unchallengeable. The leaders of the Communist Party who hail its head as "the towering genius of all humanity" or "the heart of the whole of progressive and advanced humanity" are condemned out of their own mouths if ever, publicly, they should presume to disagree with him. Moreover, the very adoration which exalts Stalin simultaneously reduces the stature of all other public fig-

ures so that their prestige is as dust in the balance compared to that of the infallible leader. For anyone publicly to criticize the leader or his policies would inevitably strike the nation as an act of sacrilege. And the result is that if ever the leader is determined to exercise his authority, there is no one who can effectively oppose him.

In such an atmosphere, unpopular measures can be blamed the more easily on minor officials: Stalin, of course, wanted the good of the people; officials have perverted his purposes. This approach is also like that of Tsarist days: the Tsar, the little father, meant well but his corrupt and selfish officials subverted his commands and ruled despotically. To revive this tradition is not only to play on Russian mass psychology but to have a handy weapon against local concentrations of power.

### *The Bases of the Leader's Power*

The leader's power, then, is based first of all upon his control of the Party machine and, secondly, upon an enormous prestige built up through every device of propaganda.

There is also a third foundation: the forcible suppression of any opposition. Lenin had already established the principle that terror must be used against any opponent of the Communist Party. Within the Party itself, however, during Lenin's lifetime, the penalty for opposition was less severe; and even in the first years after Lenin's death, opponents of Stalin were demoted from positions of power or, as in the case of Trotsky, sent into exile, instead of suffering execution.

But in 1934 the assassination of Sergei Kirov brought a sharp change in policy (p. 457). Whatever the real explanation of the purges which followed, the consequence was to remove every Communist leader of any stature who was not ready unquestioningly to accept Stalin's leadership. As we have seen (p. 449), only one of the seven men who were members of the Political Bureau at the time of Lenin's death survived: Stalin. Trotsky was assassinated in exile, Tomsky committed suicide, and Zinoviev, Kamenev, Bukharin, and Rykov all were executed. Only a small minority of the members, either of the

Council of People's Commissars (as the Council of Ministers was then known) or of the Party Central Committee, retained their posts.

Critics of the Soviet government consider these purges to be the strongest condemnation of the Soviet method of choosing leaders and maintaining them in power. If, as alleged in the trials, those who were purged were truly guilty of the crimes with which they were charged, the Soviet regime would appear self-convicted of having placed in positions of the highest authority a majority of men of the most depraved character: traitors, assassins, and saboteurs; and it could be maintained that no democratic people, in its most irresponsible mood, had ever placed in public office a comparable assortment of criminals. But if the men were not guilty, the conclusion is equally damning; for no leader of a Western democracy has had the power to indulge in a similar orgy of irresponsible destruction.

The purges may be taken as demonstrating another aspect of the process of selecting leaders. If, as seems likely, many of those purged had not engaged in active conspiracy but did disapprove of certain policies or personalities among the Party's leaders, the rules and principles of the Communist Party created a difficult dilemma. In the Western democracies men who oppose the head of the government may campaign openly, through press and public meeting, to have the national leadership changed. But in the Soviet Union such opposition is impossible. The only way of changing leaders, therefore, is through force and conspiracy; and every expression of criticism or discontent, if carried to the point of logical action, would have far more sinister consequences than in a Western country, where the man who grumbles against the President or Prime Minister simply means that he will vote against him in the next election. Thus, since Stalin's advent to power, there appear to be only two possible roads to political authority: absolute support and devotion to the leader, or revolutionary conspiracy against him. Between these two extremes there is no third way; and up to the present time, those who have chosen the second path have uniformly failed.

### *The Qualities of the Leader*

The experience of Stalin suggests that the political leader of the U.S.S.R. must possess a set of qualities markedly different from those of Western leaders. He need not, to begin with, have the personal popularity of a Roosevelt or a Churchill before he acquires power, for he never runs for office against an opposition party or candidate; and once he has achieved power by other means, government and Party propaganda instruments can manufacture the necessary popularity for him.

Similarly, he need not, like the British or French Prime Ministers, be an effective parliamentary leader, for there is no opposition to cross-examine him or to force him to engage in debate.

It may be that he bears a closer resemblance to the political leaders of Western countries in his relations with the members of the Politburo, although there is little information on this subject. Even here, however, he is not obliged, as is the French Premier, to work with the leaders of rival political parties (see p. 333); and his prestige is far higher even than that of the British Prime Minister within his Cabinet. Certainly, no one would think of referring to Stalin as "the first among equals." Yet Stalin's function is often described as resembling that of the British Prime Minister in the sense that he is a reconciler and combiner of wills.

Men who have talked with Stalin describe him as open-minded and ready to listen to the opinions of others, the sort of man who can, almost imperceptibly, by questioning and by penetrating comment, bring contending spokesmen to agreement with one another. Yet we also have the testimony of a former Secretary of State, James F. Byrnes, that in international conferences Stalin has made decisions of the utmost importance without stopping to consult colleagues in the Politburo; and Byrnes's judgment is that, while Stalin listens to and often accepts the recommendations of his colleagues, he is not controlled by them.<sup>1</sup> General John R. Deane, head of the American military mission in Moscow from 1943 to 1945, came to precisely the same conclusion.<sup>2</sup>

<sup>1</sup> James F. Byrnes, *Speaking Frankly*, p. 281.

<sup>2</sup> John R. Deane, *The Strange Alliance*, p. 43.

But if there are certain qualities of Western political leaders which the Soviet leader can do without, he also needs certain qualities which are not important for them. To maintain his power it is necessary for him to control the only instruments which might deprive him of it—the bureaucracy, the army, and the police; and he must be ready, if ever he finds that control threatened, to strike with the greatest promptness and ruthlessness and, if experience is any guide, without too great attention to individual guilt or innocence. The Communists originally came into power, not through the consent of the people, but through the use of force; and Stalin himself won power, not by popular consent, but by control of the administration. In the future, control of the administration may be enough; but in either case there is an obvious moral. If force and control of the Party machine are the keys to power, no rival must be allowed to possess them. Strategic positions have been entrusted only to those who are most distinguished for their personal loyalty to Stalin. He has been careful to keep the command of the army either in his own hands or in those of men like Voroshilov and Bulganin who are not great soldiers but who, perhaps for this very reason, cannot be regarded as dangerous rivals. In contrast, brilliant military leaders may be rewarded with medals and other honors, but they are carefully kept from the seats of power. It is even suggested that the direction of the political police has been divided among the Ministry of Internal Affairs, the Ministry of State Security, and the Ministry of State Control so that no single individual might control this powerful weapon.

Both the threats to power and the methods of combating them, therefore, are fundamentally different from those in the West. In Great Britain and the United States and, to a lesser extent, in France, the head of the government need not worry about a political coup by the leader of the army or the civil service. What he has to worry about is the loss of an election or of a vote in parliament. And this distinction marks an essential difference between the regimes. The Western statesman, in order to stay in power, must be able to persuade public opinion to support him or else adapt his policies to the demands of public opinion; but in the U.S.S.R. the threats to power do not come from the elec-

torate, the retention of power does not depend upon a popular vote, and the instruments of force upon which power really rests make it possible to a large extent to mold and direct the public opinion which, in other countries, is expected to direct the government.

### III. THE MEN AROUND THE LEADER

The passage of time has brought a marked change in the character of Soviet leadership. The men who led the revolution and who guided the Soviet government through its first years often were intellectuals of middle-class origin who were deeply interested in doctrinal controversy and who were experienced as conspirators and agitators. Once the work of socialization, collectivization, and industrialization had begun, however, it was obvious that many of them lacked the qualities necessary for leadership in the new society. The leaders of government had to direct industry and agriculture, and eloquence and a knowledge of Marxist dialectic were not particularly helpful in running railroads or increasing the production of iron and steel. Today the man who wins a position of leadership in the U.S.S.R. in some ways is more comparable to the head of a giant industrial corporation in the United States than to a Senator or President.

Of the members of the Politburo, Stalin himself won power because of his administrative ability as Party Secretary, and administrative ability is a prominent characteristic of other leaders. Molotov, Lenin once said, was the most efficient filing clerk in Russia. Malenkov (below) has been called an animated card index. Many of the other members of the Politburo have distinguished themselves in industrial or commercial activities: running the railroads, building the Moscow subway, developing the steel or canning or textile industries. Very generally they are of peasant or working-class origin, have had little formal education, and are interested, not in political theories or ideas, but in production and organization. Often they are quite young, and invariably they are characterized by an absolute and unquestioning loyalty to the leader from whom they have received power and promotion. These men frequently

hold several positions of importance at the same time and form a sort of interlocking directorate of the Politburo, the Secretariat, the Orgburo, and the Council of Ministers (see chart on p. 481).

Among the members of the Politburo who are mentioned most frequently as possible successors to Stalin are Molotov, Beriia, and Malenkov. The latter, like Stalin himself, is a member of the Secretariat and of the Orgburo and therefore in a strategic position to control the Party machine.

Vyacheslav M. Molotov, who was born in 1890, is the only surviving member of the Politburo, other than Stalin, who played a prominent part in the prerevolutionary activity of the Party. He himself was not of working-class origin: his father was a salesman. However, he joined the Party in 1906, suffered both arrest and exile, worked on the Party's publications, and became a member of the Central Committee shortly before the revolution. Before Stalin himself assumed the Premiership (or, as the title then ran, the Chairmanship of the Council of People's Commissars), Molotov held this position. Within the country posters bearing his picture often appear side by side in public places with portraits of Stalin, and next to Stalin he receives the largest number of nominations as candidate for the Supreme Soviet.

Lavrenti Beriia, born in 1901, is, like Stalin, a native of Georgia, where he distinguished himself in the secret police. He conducted the famous "purge of the purgers," after the removal of Yagoda and Yezhov, who conducted the first part of the Great Purge of 1936-38. Since 1947 he has supervised both the Ministries of Internal and State Security, the MGB and the MVD, thus controlling the local and secret police throughout the country, a large, highly disciplined, and politically reliable force. The fact that the many thousands of prisoners in forced labor camps work under the direction of the MVD means that Beriia is the director of great industrial and construction projects, and he is sometimes referred to as the greatest employer of labor in the U.S.S.R. It is regarded as significant that he has been given direction of the project to develop atomic energy.

Another type of power rests in the hands of Georgi Malenkov, who was also born in 1901,

did political work in the Red Army, and joined the Party in 1920. His unique distinction, among Politburo members, is to have served as Stalin's private secretary. As director of the Orgburo, and as one of the Secretaries to the Central Committee since 1948, he is in a strategic position to control the appointment of major personnel. The similarity of his position to that of Stalin in the struggle for Lenin's succession cannot be overlooked, and it is surmised that the appointment in 1950 of Khrushchev, a Politburo member, to be one of the Secretaries, was to provide a counterbalance to Malenkov's excessive power over the Party Apparatus.

At times it is suggested that Stalin's powers may be divided among a number of successors: that the position of formal leadership, the Prime Ministership, will fall to Molotov; that leadership in the Party will fall to Malenkov; that Beriia will dominate the police; and Bulganin, Deputy Prime Minister and the former Minister of armed forces, the army. Should this be the case, it is possible that the struggle for power which took place for the succession to Lenin may be repeated with a new cast of characters. Yet it is also possible that the succession will pass directly to Malenkov or even to a new leader who, with Stalin's endorsement as an irresistible weapon, will succeed to his position of power and personal adulation.

#### IV. THE CHAIRMANSHIP OF THE PRESIDIUM

In form, the highest official of the Soviet Union is the Chairman of the Presidium of the Supreme Soviet, who holds a position corresponding roughly to that of the King in Great Britain or the President in France. His post is one of much ceremonial importance and very little political power. As in the case of his foreign counterparts, his most important function is to mix with the ordinary citizens as a living, human symbol of the paternal concern of the government with their welfare.

The first holder of this position, Mikhail Kalinin, was invaluable as an embodiment of the typical Russian peasant, simple, friendly, and fatherly, listening to the complaints of the

peasants and receiving their petitions. His successor, Nikolai Shvernik, typifies the other great class on which the Soviet regime is based, the workers. A man of the people, he was formerly the head of the Soviet trade unions. Like Kalinin before him, he receives long lines of common people who come from all over the land, bearing their complaints and grievances. And like Kalinin he listens, gives advice, answers letters, and refers grievances to appropriate agencies.

The Chairman of the Presidium is a member of the Politburo (Shvernik is, in fact, a candidate member of the Politburo rather than a full member, is the only one in that status, and has been for many years). It is sometimes suggested that the Chairman's exceptional contact with large numbers of the common people enables him to speak with some authority on the subject of public opinion and to warn his colleagues when policies are, or are likely to be, unpopular with the masses.



## CHAPTER 6

# The National Administration of the U.S.S.R.: Planning and Controls

### I. MAKING THE PLANNED ECONOMY

No aspect of Soviet government has been so influential in other countries as its economic planning. If, in certain respects "we are all planners now," it is in part because of the conscious or unconscious impact of the Soviet experiment.

But there are vast differences between economic planning in countries like Great Britain and France and economic planning in the Soviet Union. In Great Britain and France economic planning has represented a late stage in governmental activity, superimposed on existing governmental machinery as fresh responsibilities are assumed (pp. 133, 343). In each country, industry developed under private initiative; economic planning is intended to provide no more than general direction for activities which are still predominantly in private hands. In the Soviet Union, however, economic planning has itself directed the growth of industry and now provides specific directives for the development of a state-controlled economy in which private ownership extends only to personal possessions. Thus economic planning in the Soviet Union is far greater in scope, more precise in detail, and much more authoritarian in character than in Great Britain and France. According to Stalin, economic plans in capitalist countries are "prognoses" and "guess-plans," while in the Soviet Union they are "*instructions which are compulsory for all managements and which determine the future course of the economic development of our entire country.*"

#### *The Evolution of Economic Planning*

Economic planning in the Soviet Union reached this degree of completeness, however,

only by stages. Planning under central direction is not a Marxist concept<sup>1</sup> but arose because of a national emergency, the Civil War. In that struggle the Bolsheviks forced all the limited resources under their control into a single organization directed toward the one goal of survival.

The emergency did not end, in Lenin's view, when the Civil War was over. He was well aware of the hostility without and to some degree within the borders of the country. He did not believe that security, either for the nation or for the workers' government, was possible without extensive industrialization. It was obviously not possible to borrow the necessary capital from outside: the country had to pull itself up by its own bootstraps. The sacrifices this involved would only be made, he maintained, if the productivity of agriculture and industry increased rapidly.

Lenin did not envisage a nation-wide plan for the economy, but the development of particular segments of it. With characteristic insight, he picked electricity as the key to the transformation of the national economy. A great plan of

<sup>1</sup> Marx wrote against the anarchy of production under capitalism but he said little about production and distribution under socialist society. He had no conception of a group of planners molding economic life in any way comparable to the U.S.S.R.'s State Planning Commission. On the contrary, Marx had faith that society would be gradually transformed by a semideterministic "series of historic processes." When a socialist society was achieved, he believed it would be "organized as a conscious and systematic association" within which the producers themselves "would regulate the exchange of products and place it under their common control instead of allowing it to rule over them as a blind force." But this was no more than a vague idea that once the workers were in control they would organize themselves for the purposes of production and distribution and that they would know instinctively how to undertake these tasks. It might even be said to be a notion of *laissez faire*, which is the antithesis of planning.

work to develop electric power throughout the whole country was important, he declared, not only economically but also psychologically. It "must be given at once, in a graphic, popular form, in order to captivate the masses by a clear and brilliant prospect (absolutely scientific in principle)," he wrote. "To work! and in 10-20 years' time all Russia—industrial and agricultural—will be electrified!"

A State Commission for the Electrification of Russia (*Goelro*) was appointed in 1920 and expanded in February 1921 into a State Planning Commission (*Gosplan*). The task at this time actually was beyond either the skill or the resources of the country; it was even reported that the Commission's door bore the notice, "Please knock, the electric bell does not work." But the idea of planning was implanted, and work had begun.

During the next few years transition was made from a series of projects, such as Lenin envisaged, to a centrally directed plan for an integrated national economy. In 1925, "control figures" were introduced which laid down the goals for industrial production in many fields. The key decisions to bend all efforts toward the industrialization of the Soviet Union and to concentrate on internal development ("socialism in one country") rather than on world revolution were made at this time. In 1927 a tentative five-year plan was placed before the Fifteenth Party Congress. On October 1, 1928, the first official Five-Year Plan was put into effect. Since that time the Soviet Union has operated under a series of plans which outline its goals for a period of time and give an account, more or less detailed, of how these goals are to be achieved.

### **The Character of the Plans**

The Five-Year Plans are not fixed blueprints: they are economic budgets related to economic and social objectives. Like all budgets they are drawn up on the basis of detailed information and incorporate decisions about the services which will be provided in the next period. But in contrast to British or American budgets, which cover only that part of the national income handled by the administration and contain a detailed statement of how the money will

be raised, the Five-Year Plans<sup>2</sup> cover the whole economy, describe the division of productive national resources between capital and consumption goods, lay down wage and price levels, determine credit and currency policies, and in addition describe social and cultural goals.

The scope of the plans makes exact fulfillment impossible, and such fulfillment is not expected. The plans themselves are declarations of aspirations. More detailed information on how the goals should be fulfilled was originally incorporated in the "control figures" for different industries, and from 1930 on, in annual plans covering the whole economy. More specific plans are made for each quarter of the year, or in particular cases for shorter periods of time. Moreover, there is a good deal of flexibility and adjustment to circumstance. The figures for the more limited periods are governed both by the possibilities of a particular situation and by the over-all objectives of the Five-Year Plan. For this reason overfulfillment of a particular part of the plan is regarded with approval since the general objective is a broad economic and social advance. Objectives often have not been achieved, but there is increasing precision both in the making and the execution of the plans.

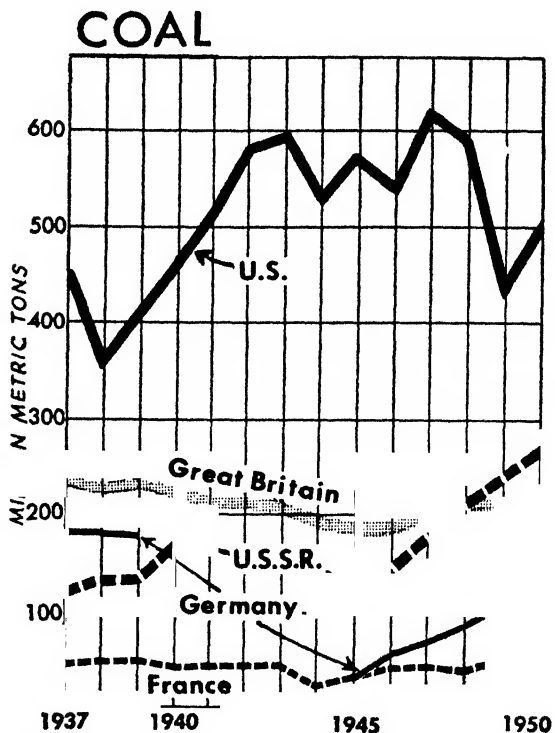
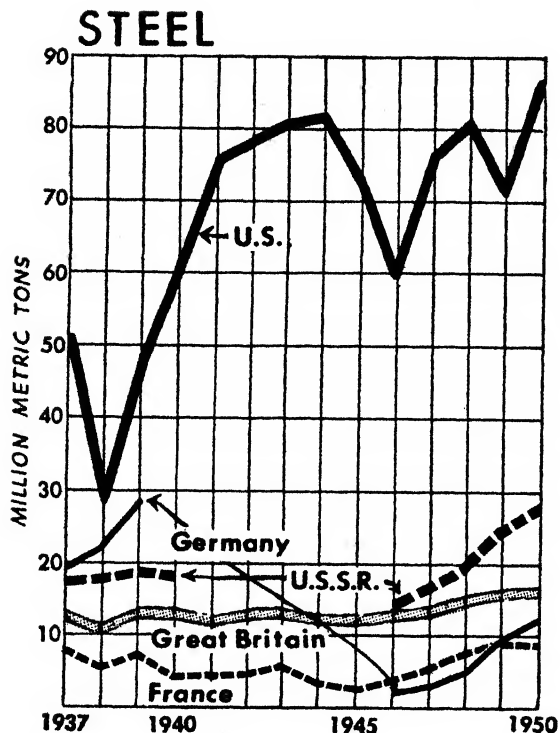
There have now been five Five-Year Plans and a more tentative Fifteen-Year Plan. Their broad objectives and results (in as far as these are known) will be sketched briefly before consideration is given to the general characteristics of Soviet economic planning.

### **The Five-Year Plans in Operation**

The *first Five-Year Plan* (1928-1932) concentrated upon the construction of heavy industry, a great increase in the productivity of agriculture, and "the elimination of the remaining capitalist elements" in the economy. It produced very uneven results. Some parts of the program, like production of electrical machinery, far outstripped the objectives, while other parts, like production of coal, fell far short of the goals set. There was little uniformity of standards, the

<sup>2</sup> The published versions have varied in size, the first Five-Year Plan being printed in four volumes, the second in two volumes, the third in one volume of 238 pages, and the fourth presented in a very condensed form as a pamphlet of 96 pages. Little specific publicity was given to the fifth Five-Year Plan.

## SOVIET PRODUCTION UNDER FIVE-YEAR PLANS COMPARISON WITH OTHER MAJOR POWERS



manufacture of many goods could not be completed because of lack of certain parts, and productive facilities were not fully used. The violent manner of collectivizing agriculture (p. 457) not only caused incredible suffering on the part of the peasants, who were pressed or lured into large-scale farming projects or deported to forced labor camps if they refused to co-operate, but also resulted in widespread conditions of famine, as the peasants destroyed their livestock and refused to adopt the new methods and forms of agriculture.

The *second Five-Year Plan* (1933-1937) whose general objective was "the transformation of the entire working population into conscious and active builders of the classless society," attempted to consolidate the economic gains of the first Five-Year Plan and to avoid its weaknesses. Its first two years were spent in completing the construction program of the first Five-Year Plan, to which it added its own program of building

large-scale industrial plants. In some fields, however, the shift from construction to production began. Also, consumer goods were given more attention than under the first Plan, though production for industry and military equipment still held first place.

Greater emphasis was placed on the quality of goods under the second Plan than under the first, though for some time without noticeable effect. But coercive labor discipline plus the hope induced by the gradual abolition of rationing and the reintroduction of incentives of personal gain spurred production and led to improvement in the quality of goods toward the end of the second Five-Year Plan. The change was most noticeable on the collective farms where fixed standards were established guaranteeing each peasant a share of the product of his own work.

The *third Five-Year Plan* (1938-1942) was drafted under the shadow of impending war. Its general aim was "the transition from Social-

ism to Communism.”<sup>8</sup> But it called, in particular, for the building of chemical industries (Molotov called it “The Plan for Chemistry”), for the creation of industrial reserves, and for the development of the more remote areas of the country (particularly the East and Far East) so that each region might be strong and self-reliant. The Plan was coupled with a “campaign against gigantomania” in construction. “Do what we can finish,” said Molotov in 1939, “and we’ll get better results.” The third Plan also promoted the further spread of collective farms throughout the country and developed a new grain-growing area in the East. It encouraged the mechanization of agriculture and took even stricter measures to ensure that the peasants gave most of their time to the work of the collective and not to their individual plots of land.

The invasion of the Nazi armies in 1941 diverted all programs to the purposes of war, and all heavy industry was concentrated on the production of munitions. Since the Nazi invasion swept over areas containing more than two-fifths of the Soviet Union’s fixed capital, only the vast expansion of capacity in the Urals and Siberia enabled the country to return to its prewar levels in heavy industry by 1945. But other basic industries and the production of goods for consumption were severely limited, so that by 1945 consumers’ goods were still 43 per cent below prewar level. Where the United States had been able to make an over-all expansion of heavy industry to meet the needs of the war, the Soviet Union was forced to achieve its expansion through a further drastic cut in articles of consumption. Agriculture also suffered seriously during the war through wastage of land and loss of farm equipment.

The *fourth Five-Year Plan* (1946-1950) or “The Great Stalin Plan,” as it was called, sought not only to restore prewar levels in industry and agriculture but also to advance production levels still further. Special weight was put on the development of heavy industry and railways, on stimulating scientific advances, on bringing industries supplying raw materials close to the centers of production, on producing consumers’ goods, and on the need “to raise further the defensive power of the U.S.S.R. and to supply

the armed forces of the Soviet Union with the most modern military equipment.” Once again the results were uneven; industrial raw materials, heavy industry and machine building equaled or exceeded their quotas while consumer goods like cloth and shoes not only did not come near the 1950 estimates but even failed to match those for 1940.

At the time that the fourth Five-Year Plan was publicized, a *Fifteen-Year Plan* (1946-1960) was also issued. This plan included goals for the production of pig iron, coal, steel, and oil, which were far in advance of those laid down for 1950. Taken jointly with what limited information there is on the *fifth Five-Year Plan* (1951-1955) it shows that the drive to develop industrial raw materials, improve transportation facilities, and increase heavy industry has been intensified still further.

#### THE CONCENTRATION UPON HEAVY INDUSTRY

Thus in all the Five-Year Plans the major stress has been laid upon the development of heavy industry. This concentration upon heavy industry is the key to the economic history of the Soviet Union. It explains the relatively small amount of productive capacity which can be devoted to consumers’ goods. It led to the collectivization of agriculture, under the belief that only if agriculture were mechanized and farmland aggregated into large units could a small number of peasants produce enough food for the whole people, thus permitting manpower for construction work and for the production line to be drawn from the farms.

Economic planning involves the conscious making of choices between alternatives. The decision to concentrate Soviet resources upon building heavy industry was made at the very beginning of the Five-Year Plans—but only after a bitter struggle between Stalin and the “right deviationists,” who believed that the standard of living of the people should be built up by production of goods for consumption before resources were used for large-scale construction projects. Stalin argued that sacrifice would permit the construction of heavy industry; heavy industry would provide for tractors and a defense industry; tractors would raise agricultural output; agricultural output would raise the standard of living, and the defense industry

<sup>8</sup> For a discussion of the difference between Socialism and Communism, see pp. 428-30.

would protect it; and the rise in the standard of living would end the era of sacrifice and lead to Socialism.

#### THE ARGUMENT OF NATIONAL EMERGENCY

On a shorter view, Stalin's determination to build heavy industry first of all was motivated in part by the desire to be free from dependence upon foreign countries and in part by the fear of foreign attack. On February 4, 1931, when the costs of the industrialization program were horrifying outside observers and causing serious dissension within the country, Stalin told a conference of factory managers that "To slacken the tempo [of industrialization] means to fall behind. And the backward are always beaten. . . . We are fifty to one hundred years behind advanced countries. We must cover this distance in ten years. Either we do this or they will crush us. . . ." When Hitler attacked in the summer of 1941, the words took on a prophetic significance and seemed to justify the enormous sacrifice and suffering of the preceding decade.

The spur of national emergency has again been used in introducing the postwar Five-Year Plans. In outlining the objectives to be reached by 1960, some of which involve doubling or even quadrupling the output of 1940, Stalin declared, "Only under such conditions can we consider that our homeland will be guaranteed against all possible accidents." Other leaders warned that "monopolistic capitalism can still give rise to new aggressors" and declared that the Russian people must concentrate their efforts on "the further expansion of the military-economic power of the Soviet state."

#### *The Balance Sheet of Economic Planning*

The Soviet Union is still a long way from achieving either the industrial capacity or the standards of living of the United States. But compared with the position of the country when the Bolsheviks seized control, an unprecedented amount has been accomplished. The strains of violent and rapid change have been enormous and still continue, but planning in the U.S.S.R. has succeeded in its major aim, that of transforming a relatively backward, predominantly agricultural country into a major industrial power.

It does not lessen the importance of this accomplishment to say that, contrary to the general impression, the Russian economic system was well adapted to planning when the Bolsheviks came into power. Industry did not develop in Russia, as in Great Britain, from indigenous, small-scale, and privately owned enterprises. Under the Tsars it was largely financed from abroad, was always large-scale, and worked in close harmony with the state (p. 454). Thus it was much simpler to adapt it to large-scale planning than would be true in a Western capitalistic country where private enterprise is naturally the chief adversary of government direction of the economy.

The magnitude of Soviet accomplishments can only be explained, however, by the "compulsory" character of planning in the Soviet Union, backed by the coercive authority of the state, and coupled with the psychological spurs of hope of improved living conditions and fear of external aggression.

The magnitude of the accomplishments is paralleled by the magnitude of the costs involved. The most striking evidence of cost was the forcible "elimination" of between four and five million kulaks during the first Five-Year Plan (p. 504). But there is also a mass sacrifice involved in the continuation of low standards of living.

Few countries have paid such a price for their industrialization. The United States was able to make use of outside resources of capital to establish the foundations of its present economic position. Great Britain, a pioneer in industrialization, presents more of a parallel to the Soviet Union since it too secured its basic economic plant at the expense of the living standards of its working people. But there were certain classes reaping prosperity in this early period of English industrialization, not only because the capitalist system enabled employers to exploit their workmen, but because England already possessed a well-developed, vigorous middle class, a body of creative artisans, and productive agriculture. The Soviet Union lacked or eliminated these advantages. Partly through its determination to be self-sufficient it did not secure outside aid for its industrialization, as the United States

had done, but met its costs by keeping low the consumption levels of its people.

The over-all industrial production of the Soviet Union now ranks second only to that of the United States. But the productivity of its labor is still far below that of other heavily industrialized countries. Increase in per capita productivity, encouraged by incentives of all kinds, has been a major goal of all the Five-Year Plans since the first. So far this objective and that of industrialization have overshadowed the other professed aim of the plans: the transition from Socialism to Communism so that everyone may receive according to his needs.

## II. THE STRUCTURE OF ADMINISTRATION

Nation-wide planning of the kind developed in the Soviet Union involves administrative problems which are wider in scope and different in character from those faced in the United States, Great Britain, and France. Higher Soviet officials do not need the same tact in administering programs, since they are not subjected to the same restraints of public opinion. Yet if their work is easier in this respect, it is far more extensive in scope. Soviet administrators must handle not only the responsibilities normally carried by the American or British public services but also those undertaken by the managers and directors of all American or British industry, agriculture, transportation, and distribution services.

One of the confusing features of the Soviet public administration is its inclusion of two parallel organizations: the organization for direction and supervision, and the organization for planning. Insofar as it is possible to separate such functions, direction and supervision are carried on through the ministries, while planning is centralized in the State Planning Commission or *Gosplan*. The State Planning Commission is formally subordinate to the Council of Ministers, but there is so much interaction in the work of the two bodies that it is sometimes difficult to tell which is controlling the other. More important is the fact that both are subject to the "inner cabinet" (p. 494), and the Politburo.

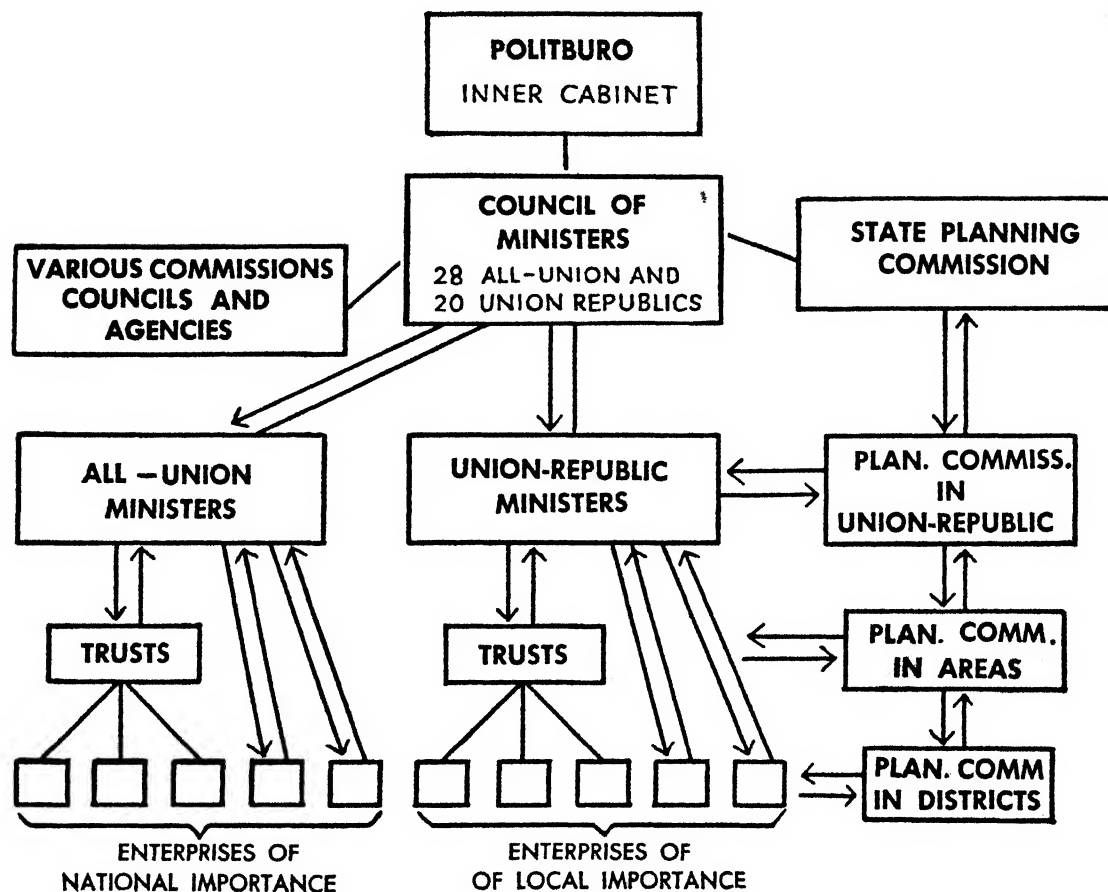
### The Ministries

The ministries are not unlike government departments in the United States and Great Britain, but in the Soviet Union they have far wider responsibilities. The Constitution of 1936 established eighteen ministries (called People's Commissariats up to 1946), each of which had broad functions. These ministries were steadily divided into more specialized bodies and others were added until there were over sixty ministries by 1947. Thereafter the process was reversed. Thus the Ministries of Agriculture, Technical Culture and Animal Husbandry were combined into a single Ministry of Agriculture and a similar process of unification took place elsewhere until by 1950 the number of ministries was reduced to forty-eight.

As already noted, some of the ministries are All-Union while others are Union-Republic (p. 495). The distinction between them is far less important, however, than experience with the American federal system would suggest. The main difference is that subjects handled by Union-Republic ministries (like food, agriculture, and health) are administered on a more decentralized basis. But since there is no guaranteed division of powers between All-Union and Union-Republic authorities in the Soviet Union, a ministry in a Union Republic is responsible not only to its own Council of Ministers but also to the All-Union ministry in the same field. A parallel situation in the United States would make the Massachusetts Department of Agriculture responsible not only to the government of Massachusetts but also to the federal Department of Agriculture. Only the Republic ministries, such as that for Communal Economy, have a certain local autonomy and these do not have counterparts at the center in Moscow (see p. 527).

Though originally more Soviet ministries were Union-Republic than All-Union, the balance has now swung very much the other way. Most new ministries are established as All-Union bodies and some, like those for higher education and important local industries, which were formerly under Union-Republic ministries, have been transferred since World War II to All-Union status. This is in line with a general centraliza-

## SOVIET ECONOMIC ADMINISTRATIVE STRUCTURE



tion of control within the Soviet Union, particularly in economic matters.

### ADMINISTRATION OF INDUSTRY

Most of the ministries maintain supreme administrative control over a particular branch of industry, such as automobiles, road-building machinery, or fuel. To carry out its responsibilities, the ministry is divided into a great many departments, organized on what is called the "territorial-productive principle." This means that the responsibilities of a particular department are limited not only to enterprises which do a particular type of work (e.g., manufacturing nuts and bolts) but to those enterprises in a specific area. Several departments, for example, deal with oil refining, each in a different part of the

country. Each department has full powers in dealing with the enterprises, i.e., factories, mines, and so forth in its field and area. It controls their supply of raw materials and their sale of goods and gives advice on technical and financial questions.

Some enterprises are grouped together under *trusts*, that is, boards which co-ordinate a number of related industrial enterprises through their power to appoint or dismiss managers. Under the NEP (p. 456) trusts were relatively independent of government control and were run for profit; but in 1927 profits were made subordinate to strict adherence to the Plan, and the enterprises, in turn, became more independent of trust control. In 1929 the individual enterprise was declared to be "the basic unit" of in-



dustrial production. When the "territorial-productive principle" was introduced in 1934, ties between enterprises and departments were strengthened, with the aim of developing more personal contact between the central administration and the local enterprise; at that point the trusts became agencies of co-ordination for the departments instead of exercising control on their own.

Various methods are used to maintain contact between the administration and the enterprises, whether the latter are grouped together under trusts or not. Advisory councils, representing the factories, meet bi-monthly with appropriate departments. Close check is kept on the adherence to established production goals. However, there are enormous difficulties in the way of maintaining effective supervision and direction of so many individual enterprises. A comparable situation in the United States would mean that a Washington department would direct every oil producer in the country. Necessarily the enterprises, each under a single manager, have a considerable amount of autonomy in carrying out instructions and meeting the goals assigned them, though only within the limits of their part of the Plan.

#### ADMINISTRATION OF AGRICULTURE

The ultimate objective of the Communist Party for agriculture is to organize it on the pattern of industry. To judge by the degree of resistance, this development has been the most unpopular within the Soviet Union. The peasants were originally won to support of the Bolsheviks by the hope, temporarily realized, of owning their own land (p. 456). When the twenty million peasant owners were forced into a quarter of a million collectivized farms in the early thirties, it was a revolution no less drastic in effect and much more bitterly fought than the revolution of November 1917.

After resistance was crushed by ruthless measures, including famine, the organization of the collective farms was stabilized, mechanization became common, and the government procurement system was established to draw off the first fruits of production. Dissatisfaction with production and the operation of the smaller collective farms, however, led to a drive in 1950 to consolidate the existing 250,000 col-

lective farms into about 100,000. Widespread opposition in the countryside slowed the drive but the objective has not been renounced. That it would bring the peasants more under control seems likely. Whether the result would be to increase production is more open to question, for there is little evidence that collective farms are as productive as family farms. The American farm is still four and a half times more productive than the Russian farm even though the latter is now mechanized.

Though the *state farms*, or *soukhhozy*, most nearly reflect the Communist ideal of large state-operated units, experience with them has been disappointing. These farms, occupying about 9 per cent of all agricultural land, are each organized under a single director, are cultivated by hired labor on the pattern of an industrial enterprise, and are directly under the Ministry of State Farms. In part the relative failure of these farms arose from being over-large, overspecialized (they were often referred to in the early thirties as grain or cotton "factories"), and lacking in trained management. Even after adjustments, however, their output remained generally lower than the average for the whole country. Today they receive much less attention than formerly.

*The Organization of the Collective Farms.* The predominant form for agriculture is the *collective farm*, or *kolkhoz*, a supposedly voluntary union into which, in fact, the peasants were forced by Communist Party pressure and the threat of starvation. The common type of association is the *artel*, in which some possessions are owned by the whole community and some by individual households. The decision to permit small private holdings within the collective farm was influenced by the peasants' widespread destruction of their cattle, horses, and even implements when these were forcibly collectivized. Since the middle thirties the collective farm has owned such items as agricultural machinery (except tractors which were placed under centralized control), seed stock, draft animals, and central buildings needed for the operations of the farm as a whole, while individual households have owned their houses, garden plots of about one acre, and hand instruments like spades. In the principal agricultural areas, they are allowed one cow, one sow, and

their offspring, a few goats and sheep, and poultry.

Collective farms must raise almost all the food products needed not only for mass distribution to urban centers but also for export and for food reserves. What the Communist Party calls the "first commandment," or "sacred obligation," is to deliver the first proceeds of the farm according to a schedule drawn up by state authorities. These first proceeds may be drawn not only from the output of collective farm land but also of the peasants' private holdings, if necessary, and are supposed to take precedence over the peasants' or the farm's needs. The state buys these products, but generally pays only about one-quarter of what it sells them for. The "second commandment" is to store seed grain; but the "first commandment" has priority. Any surplus left after meeting these two commandments may be sold by the collective farm on the local market.

The work contributed by each peasant, man or woman, to the collective farm is calculated by means designed to make such effort not only profitable but also obligatory. The jobs on the farm are divided into certain categories according to the amount of skill that they need and an artificial unit called a "*labor day*" is used to calculate the value of the particular work. Thus, for example, tractor drivers earn at least three "*labor days*" for each full day of work they contribute to the collective farm (they may earn up to five "*labor days*" in one day if they show particular efficiency) while those doing the ordinary chores of the collective farm earn only one-half "*labor day*" for each day they spend. At the end of the year the "*labor days*" credited to all the individuals on the farm are added together and divided into the farm's collective income (which is the total remaining after the expenditures for tractor service, cash advances, taxes, and allocation to the farm's jointly owned fund, are subtracted from the farm's receipts) to find the value in money of one "*labor day*." Each individual's share in the receipts of the farm is then determined by multiplying the amount fixed for one "*labor day*" by the number of "*labor days*" which he has worked during the year.

The returns to individuals from different farms, of course, vary considerably, and the

whole process requires an intricate credit system which has to be very carefully supervised if abuses are not to occur. Even when calculations are made honestly, it is almost impossible to ensure efficiency since the "*labor day*" unit is based on the time spent rather than on the output. Moreover, contrary to original expectations, the returns from the work on collective farms have not been great enough of themselves to persuade the peasants to put in a high percentage of "*labor days*." Hence, a minimum number of "*labor days*" has been set below which no member of the collective farm is allowed to fall: in 1939 the minimum standard was set at sixty to a hundred "*labor days*" a year, raised in 1942 to between one hundred and one hundred and fifty "*labor days*" a year, and even higher during the war. Those who fail to attain the prescribed number of "*labor days*" by certain dates in the year are expelled from the collective farm (entailing the loss of their house and garden) and prosecuted in court.

The personal holdings of the household are supposed to provide it with day-to-day needs, but individual surpluses, like those of the collective farm, may be sold on the local market. To take advantage of this, the peasants, during the war, stealthily but steadily enlarged their individual holdings, at the expense of the collectively owned land. Temporarily permitted for the sake of increased production, this practice was attacked systematically in the late forties as part of a large-scale drive to bring the peasants under more effective Party and state control. The consolidation of the collective farms into larger units seems not unrelated to this move and has created widespread dismay among the peasants.

In theory, the members of the collective farm "alone are the masters of their own farm"; according to the charter, they manage it through a general assembly which elects a chairman, an executive board, and a control committee. But not only must they meet the centrally imposed agricultural quotas; they must also accept, here as elsewhere, Party control. It is even said that "where there is no Bolshevik leadership, there is no *kolkhoz* democracy." But even though there has been a great increase in Party members in the rural areas since World War II, there was by 1950 still only one Party unit to

every three collective farms, and many of these members lacked the experience to take effective responsibility. This provides another reason for the further consolidation of the collective farms. In the meantime, the Party usually continues to appoint the chairman of the farm. The heavy turnover among these officers evidences restiveness at this interference from outside, and there is evidence that the Party would prefer to maintain its control through the less obvious device of the Party fraction.

*Central Control of the Collective Farms.* As in other spheres, several agencies have a share in agricultural administration. The Department of Agriculture and the Council for Collective Farm Affairs have general responsibility. The key agency of control on the administrative side, however, is the agricultural section of the district or *rayon* government which is responsible for keeping a check on the income, expenditures, and deliveries of the collective farms. Though the State Farms are separately administered, their "agronomists," or *county agents*, are a major source of technical advice to the peasants. More directly under the agricultural section of the district government are the *machine tractor stations* (MTS), which control the heavy mechanized equipment on which a collective farm depends. In 1930 there were 158 machine tractor stations servicing 27.4 per cent of the collective farms; by 1940 there were 6,980, servicing 94.5 per cent. The machine tractor station is an important link in Party control, and the political assistant to its director is the general "trouble shooter" in the area. In the background, but never far distant, is the district office of the MGB, the secret police, whose informers keep it alert and ready to crush serious disaffection on any collective farm.

#### ADMINISTRATION OF FOREIGN TRADE

The Soviet government imposes the same rigid control over imports and exports as it maintains over internal industrial developments. It controls foreign exchange rates, keeping them quite separate from the value of its domestic currency, and it permits only government agencies to participate in foreign trade. By maintaining this complete government monopoly of foreign trade, and by putting the power of the state behind every commercial

transaction, or in other words, by *state trading*, the Soviet Union makes its international trade serve the purposes of its internal economic development.

The Ministry of Foreign Trade, which controls all international economic transactions, has had the most stable history of any ministry in the Soviet Union, testifying to the general satisfaction with its operations. The Ministry includes a number of departments specializing in particular functions and areas. The Department of Planning and Economics works closely with the State Planning Commission in drawing up estimates for imports and exports and with the ministries affected by foreign trade. Export and Import Divisions centralize administrative control over these activities. Shipping and railway transport are under the Chief Transport Administration; foreign exchange and credit are handled by the Foreign Exchange and Finance Administration.

*Foreign Trading Companies.* Imports and exports are handled by a number of *specialized state companies* like *Eksporthleb*, which exports grain, sugar, poultry and other foodstuffs, and *Teknoeksport*, which exports machinery, equipment, rolling stock, and metal goods. These companies are legal entities which can conclude agreements with foreign firms and incur obligations within the limits of their charters and their basic working capital. Some have the right to operate on foreign markets. The state is not responsible for their obligations, since they are "independent proprietors" according to the Civil Code, but they are nonetheless the property of the state. They come closer to being public corporations than any Soviet productive enterprise. There are also *transport organizations* which have monopolistic positions and can operate where necessary on foreign markets. In addition, there are a certain number of mixed companies incorporated in foreign countries for purposes of buying and selling, like Arcos, Ltd., in Great Britain and the Amtorg Trading Corporation in the United States. Their position is defined by the law of the country they operate in, and they are not technically Soviet state property, but they are clearly a part of its trading machinery.

The Soviet Union also maintains overseas *trade delegations* which have power to conclude

agreements affecting foreign commerce. The trade representatives have a dual position, enjoying diplomatic immunity as members of the Soviet Embassy and at the same time being subordinate to the Ministry of Foreign Trade.

If foreign firms wish to do more than a small amount of business with the Soviet Union, they must secure the permission of the Ministry of Foreign Trade to establish an agency in the country. Even then they are allowed to operate only within the limits and time defined by the contract. Arrangements for settling disputes are generally also included in the contract.

The highly centralized and supervised organization for Soviet foreign trading contrasts sharply with the *laissez-faire* arrangements characteristic of the United States, where imports and exports are left to the initiative of individual businessmen and firms. In fact, the scope and character of Soviet state trading provides perhaps the most striking illustration of the essential difference between countries like the United States, Great Britain, and France, which have a large measure of private enterprise, and the completely controlled economy of the Soviet Union.

### *The Structure for Planning (Gosplan)*

Side by side with and sometimes an integral part of the administrative structure of the ministries, which provide economic direction and control, is the structure for planning embodied in the State Planning Commission (Gosplan). The State Planning Commission is attached to the Council of Ministers, and is an advisory body, not an executive department of state. Its key position is evidenced by the fact that for some time the Commission was headed by Voznesensky, a member of the Politburo; after he was purged, Saburov, a deputy prime minister, took his place.

The State Planning Commission has three major functions, each of them overwhelming in scope. In the first place, it must estimate the existing material, labor, and financial resources of the country by securing and co-ordinating a vast mass of information which reaches it from all over the Soviet Union. In the second place, it prepares detailed, unified plans not only for the whole economy but also for other fields like

education. The general emphasis of these plans (which together form the Five-Year Plan) is determined by the Politburo and the Council of Ministers, but the State Planning Commission must work out all the details. Thirdly, the State Planning Commission checks the performance of all the institutions involved in the Plan, which means in fact all the institutions in the country.

### PREPARING THE PLAN

When the Soviet Union first embarked on building a planned economy, the plans were little more than a series of estimates of production goals. Moreover, the plans for different parts of the economy were not interrelated until a late date, and, even then, often with unfortunate results. Sometimes there were not enough raw materials to meet the goals in all fields, or skilled labor might be lacking. The comparatively haphazard results of the first Five-Year Plan indicates the weaknesses of this type of planning procedure.

This early planning procedure was replaced in the 1930's by the much more accurate, though highly complicated, process of balanced estimates. Balanced estimates proceed on the basis of checking and counterchecking the resources available, the uses to which they can be put, and the effect of each part of the plan on every other part. The principle does not differ from that underlying the balance sheet of an ordinary business, although in the United States material and labor resources are generally translated into financial terms. To secure a balance sheet for an entire country, however, is a task of staggering dimensions.

During the preparation of the second Five-Year Plan questionnaires were circulated to all the major territorial divisions of the U.S.S.R. with explanations of the type of statistics needed for the Plan. The information gained was used to work out the basic control figures for each part of the economy, and these figures, used in relation to the broad objectives which had been set, made it possible to outline the general framework of the Plan. On the basis of the control figures the State Planning Commission issued directives to departments and to districts indicating the limits within which they could propose plans. Twenty-four All-Union conferences and meetings were called by the State

Planning Commission to consider its estimates, dozens of other conferences were held by the ministries, districts, and enterprises on their more limited problems and aims, and research institutes and specialists also discussed the control figures. Though the State Planning Commission made the ultimate decisions, it took the local plans and the results of the conferences into account in drawing up its final draft of the Plan.

#### PUTTING THE PLAN INTO OPERATION

The work of the State Planning Commission is not over, however, when the Five-Year Plan has been formulated or even when it has been broken down into the more accurate and detailed annual and quarterly plans (p. 503). Stalin once declared angrily, "Only bureaucrats can think that the work of planning ends with the drawing up of a plan. The drawing up of a plan is merely the beginning of planning. Proper planned guidance is developed after the plan is drawn up, after it has been verified locally and rendered more precise in the process of fulfilment."

Putting the Plan into operation requires the adjustment of details to actual conditions. Where the plans appear to be workable when applied to a given situation, precise directives are issued and enforced by penalties. Where given circumstances make it impossible to carry out the plans, or where planning mistakes become obvious, means have to be devised to alter the plans and to take care of the effect of such changes on other parts of the Plan. Too often, apparently, these two approaches have been confused, and managers of enterprises have been punished because of inability to carry out unworkable plans. Such difficulties have been less common since 1938, when the State Planning Commission received the power to verify the fulfillment of the Plan, both by demanding data and by having its own commissioners in every part of the country. Thus the State Planning Commission not only has authority over the execution of the Plan but can exercise this authority on the spot and, in this way, keep its finger constantly on every aspect of economic life throughout the country.

The progression in *industrial planning* thus has been in the direction of more systematic

control of industry and more rapid revisions of plans. There has also been a steady increase in the scope of planning, as for example in 1941 when the State Planning Commission developed for the first time a plan for the technical improvements to be introduced into the principal branches of the economy, such as railroads, metallurgy, engineering, and building materials.

In *agriculture* progress has not been so definite. Up to 1940 each farm was told not only the total crops it should sow but also the kind and amount of each. Instructions were issued regarding the time of planting, harvesting, breaking up of new land, use of fertilizers, and so forth. In 1939 the Plan included data on the planting of vegetables, fruit trees and vines, and the breeding of animals. In 1940 this procedure was relaxed, since grain production was up to standard and it was assumed that the collective farms had acquired the necessary experience to decide their own programs of planting within the general plans for agricultural production laid down by the state. However, subsequent shortages of grain in 1947 led not only to more detailed instructions but to the setting up of a central government inspection service to make sure the collective farmers were not underestimating the size of their crops. Even so, results have remained unsatisfactory, which was a factor in the further consolidation of the collective farms. So far agricultural production has showed itself far less amenable to the Soviet type of planning than industrial production.

#### THE ORGANIZATION OF THE STATE PLANNING COMMISSION

The organization of the State Planning Commission is almost as complicated as the tasks it undertakes. It follows the model of a Union-Republic ministry, though it is more tightly centralized. At times it has contained more departments than there were ministries in the country; and these departments are subdivided in turn into bureaus, sections, and institutes. Within the Commission, however, the chief division is between the departments of *co-ordinate planning* and those concerned with *particular branches* of the economy or of community life. The latter, e.g., the Fuel Department or the Department for Machine Building, are responsible only for co-ordinating data in their

particular field. But the departments of co-ordinative planning must determine the interrelationships and interdependencies of different aspects of the plans so that balanced estimates can be made. The Finance Department, the Price Bureau, the Department of Labor, the Department of Raw Materials Balance, and departments for various areas are all concerned with co-ordinative planning, but the major divisions for this purpose are the Departments of Perspective Planning and the National Economic Plan. These departments draw, of course, on the work of the more specialized divisions of the State Planning Commission, but they determine the final plans.

In performing its huge task the State Planning Commission draws on the resources of a vast network of planning bodies both in territorial areas and functional divisions throughout the country. *Territorially*, there are planning agencies in every governmental area or subdivision, i.e., the Union Republics, autonomous republics, autonomous regions, administrative areas, districts, cities, and townships. *Functionally*, there are planning agencies in every ministry (All-Union and Union-Republic) and department, and also in every trust, factory, and collective farm. Duplication is inevitable in this dual set of arrangements, although there is a certain advantage in having a double check. All these agencies are responsible, however, for following the instructions of the State Planning Commission both in planning and in supervising the execution of the plans. Thus there is an ultimate centralization of authority. The outside observer is inevitably impressed by the amazing comprehensiveness of this machinery but is led also to question whether, in fact, it is possible for a single body to handle satisfactorily such enormous responsibilities.

### III. CONTROLLING THE ADMINISTRATION

In addition to nation-wide planning, there operates in and over the administration an intricate and intersecting network of controls: party, finance, the Ministry of State Control, and the secret police. It seems not too much

to call these controls, in the words of an American authority, "a system of power founded on cross-espionage and the institutionalization of mutual suspicion."<sup>4</sup>

#### Party Controls

The Party controls the administration in three main ways. Most important, it provides the framework of policy within which the administration must function. Almost as significant is the fact that all important administrators are also Party members. Beyond this is the work of the Party fraction which exists in each branch of the administration and not only works with management for efficiency and discipline but may report directly to higher party officials. Thus within the Party itself there are checks and counterchecks.

#### The Role of Finance

To use finance as a control in the Soviet Union may seem somewhat strange, for production in that country depends upon the resources of material and labor available, the production plan, and the skill with which it is carried out, not on profits, as may be the case in a capitalist country. Yet monetary incentives are widely used in the Soviet Union to stimulate output. The Ministry of Finance, a Union-Republic ministry, and its subordinate organs play an important role in the organization of the economy and in controlling its operations. In other words, the Soviet Union has a money economy, but finance is looked on as a means of aiding and supervising the economic plan, not as an independent factor.

#### THE BUDGET

The Soviet financial system and government budgeting are on as enormous a scale as is its economic planning. The unified government budget of the Soviet Union (which includes not only the federal budget but also the budgets of the Union Republics and various local budgets, which are drawn up separately but checked by central authorities and balanced when necessary

<sup>4</sup> Merle Fainsod, "Recent Developments in Soviet Public Administration," *Journal of Politics*, 1949, p. 680.



by the federal budget) consistently includes about 75 per cent of the annual national income and expenditure.<sup>8</sup> Moreover, the separation between those items included in the budget (such as capital expenditures, wages, defense, social services, education) and those which are not (such as the funds of the collective farms) is far less significant than in a country like the United States or Great Britain where there is a real distinction between public and private activities.

The government budget translates the production program for the country into financial terms. Between 50 per cent and 65 per cent of total annual expenditures are earmarked for building new enterprises, reconstructing old ones, and providing capital for their working needs.

#### SOURCES OF REVENUE

The revenue to meet these expenditures comes from the earnings of state enterprises—state farms, machine and tractor stations, state trade and transport, and so forth—and from direct and indirect taxes on individuals and on the co-operative farms. By far the most important of these sources, amounting to about 60 per cent of total government revenue, is the turnover, or general sales, tax, which is levied every time a producer or distributor sells a product, i.e., when it goes from one enterprise to another in the course of production as well as when it is sold to the consumer. It is usually a high percentage of the cost of the product, varying widely in amount. In 1938 it ranged from 55-82 per cent of the cost of meats; 50-83 per cent for fats; 3-30 per cent for bakery products; 12-34 per cent on footwear; 46-71 per cent on soap; 68-88 per cent on tobacco. It falls on necessities, therefore, as well as luxuries. In Western countries such a tax is generally regarded as undemocratic since it takes a much larger proportion of the income of the poor than of the rich. In the Soviet Union it is included by law in the price of the goods sold, and probably most buyers are unaware that they are paying a tax as well as the price of the product.

About 90 per cent of the earnings of industry

go directly into the state either through direct or indirect taxes; the other 10 per cent of earnings is left to individual enterprises for working capital and incentive payments to labor. But an American is likely to feel that there is a great deal of artificiality about the financing and taxing of state enterprises. In the Soviet Union, as in the United States, the earnings of any enterprise are the difference between the cost of production of its products and the price which it receives for them. However, in the United States, cost of production includes such items as capital investment, upkeep of plant, price of raw materials, wages of labor, salaries of management, advertising and sales cost, and taxes. The price is a market price, determined largely by supply and demand, though often it is influenced by attempts at price fixing. In contrast, in the Soviet Union the government fixes all prices and wages. Capital investment is a charge on the government's budget; advertising and sales costs are largely eliminated. The earnings of Soviet industry, therefore, are the difference between the cost of its raw materials, wages, and salaries (all of which are set by the government), as well as the cost of upkeep, and the prices it receives, which are also set by the government. The volume of earnings of an enterprise, therefore, is largely determined by the operation of price and wage policies which are an integral part of the state financial plan.

#### CONTROL BY THE RUBLE

The real purpose of this complicated financing is to provide a handy and effective instrument of regulation, which is sometimes called "control by the ruble." An enterprise can use freely only the working funds which it has accumulated or which have been assigned to it from the state budget. These funds cover only the minimum of normal operations. Special seasonal or emergency expenses are financed through short-term loans from the State Bank, which is the only agency in the country empowered to make such loans. No credit may be extended from one enterprise to another, e.g., to buy raw materials. All such transactions have to go through the State Bank, which thus keeps a check on all operations which cannot be handled through the working fund. Moreover, as a rule, all money passes through the State Bank

<sup>8</sup> The American budget at the peak of war expenditures included about 49 per cent of the national income and normally includes much less.



(which has 3,000 branches), since cash receipts must be banked daily by trade and co-operative organizations.

The Bank's criteria for lending to particular factories are in part similar to those of banks in the United States or Great Britain, e.g., financial soundness; but the chief consideration is the relevance of the request to the Plan. Each enterprise is supposed to be operating within the specifications of its part of the Plan: the Bank, too, has a financial plan. "No plan, no loan" is the motto.

Although the State Bank controls only short-term loans, there are four banks which give long-term loans: the *Prombank*, which finances capital construction of industry and electrification; the *Solkhozbank*, which finances agriculture; the *Vsekhobank*, which finances co-operative societies; and the *Tsekhombank*, which finances municipal construction. Like the State Bank, they are not independent in operation but are agencies for distributing state money and checking on the relevance of requests to the Plan. In practice, they are control departments of the Ministry of Finance, a fact recognized when the State Bank was officially transferred to that Ministry in 1947.

### **The Ministry of State Control**

In addition to the current supervision of monetary transactions through the banks and the Ministry of Finance, there is a careful check through audits made by the Ministry of State Control, a Union-Republic ministry with a highly centralized administration. This body maintains a daily preliminary and *post factum* control of "the accounts, custody and expenditure of state monetary funds and material values" placed at the disposal of state, co-operative and other public organizations and enterprises. It is also responsible for "the systematic, concrete, and operational supervision" of the fulfillment of all government decrees, and for the adoption of "urgent measures for strengthening Soviet discipline." Thus it can issue directives and impose penalties. It is closely linked to other agencies of control: its minister in 1949 was Mekhlis, a member of the Orgburo, who was replaced on retirement by Merkulov, head of the MGB, a fact which may indicate a tendency to link the

work of this Ministry more closely to that of the secret police.

### **The Secret Police**

To Western democratic peoples, nothing is more disturbing and abhorrent than the controls exercised over the administration by the secret or political police of the Ministry of State Security (MGB). The MGB works closely with the Ministry of Internal Affairs (MVD) which is similarly a Union-Republic ministry but under direct central control in the R.S.F.S.R. The MVD handles the local police, the troops of the former NKVD, and the forced labor camps, while the MGB penetrates every section of the administration, watching for disaffection and swift to punish it. Not only can the secret police make arrests (though theoretically they should have the approval of the Attorney-General), they can also sentence to banishment or up to five years' imprisonment in a corrective labor camp.

The enormous powers concentrated in the hands of the political police have led the regime to make every effort to keep it under the control of the Party. Thus an outstanding member of the Politburo, Beriia, supervises both the MGB and the MVD; the members of both organizations are nearly always Party members; and the secretaries of their Party groups report direct to the Central Committee. Thus the system of controls not only institutionalizes suspicion and espionage against the administration itself but also of the controlling groups against each other.

## **IV. THE WORKERS**

The most colossal and in some ways most decisive task in building the planned economy has been the mass recruitment and training of its workers. From 1928 to 1940, a spectacular increase raised the numbers of workers and other employees from 11,539,000 to over 30,000,000. Probably 3 out of every 4 working in industry or administration in the latter year had been drawn into the system since the first Five-Year Plan.

The great bulk of these workers came from the peasantry, always a supply of excess labor.

This excess labor was released from 1930 on through the collectivization of the farms. Some of the peasants sought the new employment; others were recruited by industrial agents. Competition for workers was so great that the government assigned special areas to particular industries.

But it was difficult to keep the workers long enough in one place for adequate training in the handling of unfamiliar machinery. High turnover and low discipline were the not surprising results of absorbing huge masses of unskilled labor. There was so much demand for labor by different industries that it was nearly always easy to secure alternative employment. Out of this situation arose the present system, which makes wide use of conscription for industrial training and work, of piecework and incentive payments, and of such disciplinary devices as labor passports, forced labor, and concentration camps. Put into force prior to the wartime period, these have become characteristic features of Soviet working conditions.

### *Training in the "Free Labor Force"*

To ensure a constant supply of trained labor, the government in 1940 instituted the so-called "Free Labor Force," or State Labor Reserves, by ordering an annual draft of 800,000 to 1,000,000 boys between fourteen and seventeen years of age. As revised in 1947, the draft also included girls, and provided that boys between fourteen and seventeen and girls of fifteen and sixteen should go to railway and trade schools for two years to train as skilled workers, while fourteen- to eighteen-year-olds of both sexes serve in factory plant schools for three to six months before being drafted into less-skilled trades. After training, the youth is conscripted into industry for four years, no choice of occupation being given. Thereafter the boys are still liable for two to five years of military service. The difference between military and industrial service is one of occupation rather than condition, however, for Bedell Smith reports that the boys in the State Labor Reserves whom he saw were in military uniforms and under military discipline.

### *Labor Incentives*

But with all this, compulsory training is not enough to answer the Soviet government's greatest concern: the low productivity of Soviet labor compared to that of the United States. Standards are set for most work, such as brick-laying or even typing, and heavy additional percentages are paid for output beyond the standard. In 1936, for example, the standard for a day's work for women typists was set at forty-five pages of thirty lines with sixty strokes each. Increase in output of 10 per cent led to a 25 per cent higher salary, and increases over 40 per cent to a 125 per cent higher salary. By 1938, only 16 per cent of all workers and employees received ordinary time-wages; the rest were on piecework or received bonuses in addition to basic wages. Thus the "piece-wage," which Marx declared to be "the form of wages most in harmony with the capitalist mode of production," was adopted by the Stalin regime as typically socialist.

The highest triumph of the "piece-wage" came with the Stakhanovite movement, which after 1935 replaced "socialist emulation" between collective groups. Under the earlier system, factories challenged each other to competition in production; the newer trend emphasized individual achievement. It took its name from a coal miner, Alexei Stakhanov, who hewed a record output of coal on August 30, 1935, introducing a new division of labor by separating the skilled from the unskilled parts of his work, and also by improving the tools he used and adapting them to the particular conditions under which he was working. This achievement was used to dramatize the rationalization of the production process for which Soviet factories and mines were at last equipped by the mid-thirties. Some of the production records were sheer publicity stunts and resulted from the work of teams of people rather than the individual Stakhanovite, as was often claimed. But the increase in individual quotas was sufficiently marked to provoke among many workers a definite hostility, which was only stamped out in the great purge of 1936-38. Stakhanovism, described by Isaac Deutscher, as a "mixture of progressive rationalization and old-time sweated

labor,"<sup>6</sup> is now the characteristic form of Soviet work.

Three problems arise from incentive payments. The first is the difficulty of estimating their effect ahead of time. The tendency when drafting the Five- or even One-Year Plans has been to overestimate the effect of incentive payments and to anticipate that the costs of production of enterprises would decrease, mainly through an increase in the productivity of labor. In general, however, productivity has not been raised to the levels estimated and, in consequence, enterprises have had to increase their expenses by employing more labor, or else lower the output and quality of their goods.

The second problem arising from incentive payments is that higher wages are not, in fact, much of an incentive unless there is something to buy with them. The increase in labor's spending power has increased its demand for the limited quantity of consumers' goods. Since the Plan has concentrated on the construction of heavy industry, food and consumption goods are not equal to the demand; the results are discontentment, illegal transactions, dislocation of budgetary balances, and inflation.

Beyond this, the continuation of sharply differing wages based on productivity, coupled with the high prices of the necessities of life, give the average unskilled Soviet workman a far lower standard of living than the poorest of British workmen; the skilled Soviet worker can enjoy a standard of living more or less similar to that of his British equivalents, though still much lower than that of an American skilled worker. It seems evident, therefore, that either all Soviet workers must become skilled workmen, or else the effects of accelerated industrialization will be a continued tax on the consumption levels of the less productive workers and an increasing social and economic division in Soviet society.

#### LABOR DISCIPLINE

Financial incentives and non-material rewards, such as becoming a "Hero of Labor," or even being elected to the Supreme Soviet, have been increasingly supplemented by penalties. Social insurance benefits are weighted according to

length of service in a single enterprise. Unemployment aids were abolished early in the 1930's. Penalties for absenteeism (defined as being twenty minutes late for work or leaving early for lunch or loafing on the job three times in a month or four times in two successive months) changed during the years 1938 to 1940 from automatic dismissal with loss of seniority rights to six months' compulsory work in the same enterprise with one-quarter deduction from wages.

The year 1940 marked a high point in labor discipline from which there has been no recession. In that year it was declared: "Every system reproduces its labor on the basis of its own law of development . . . where the basic funds belong to the State, i.e., to the whole people, the work of this or that citizen cannot be his private business, but must always be a part of unified social responsibility. The State has the right to distribute labor according to the best of its judgment." In pursuance of this principle, all workers were forbidden to leave their jobs without permission, and the government decreed that skilled workers and technical personnel could be moved at will anywhere in the country. Since every worker must have a labor book, which is held by the employer, and cannot by law take a job without one, he can move in fact only if his employer agrees or if he can find another employer who because of the chronic labor shortage is willing to turn a blind eye to the illegality of his position.

#### The Trade Unions

Such restrictions on the mobility of workers coupled with government-set wage scales seems to leave little scope for trade unions and, in fact, the Bolshevik Revolution brought a fundamental change in their position. Before the revolution their function, as in other countries, was to protect the interests of the worker against the employer;<sup>7</sup> so long as the NEP continued, something of this function remained. However, from the time that the workers' state began itself to be the employer, and particularly after the abandonment of the NEP, the question was bound to arise whether the workers united in trade unions had any interests different from

<sup>6</sup> Isaac Deutscher, *Soviet Trade Unions*, p. 116.

<sup>7</sup> Under the Tsarist government, trade unions were legal though often persecuted under trumped-up charges.

those of the workers united in the Soviet state. To the old-line leaders of the unions it seemed obvious that whether the employer was the state or a private individual it was still to the advantage of the worker to work shorter hours and to receive higher wages. To the government, however, there was a fundamental distinction. Formerly the long hours and low wages of the worker served only to line the pockets of a private employer. Now, however, the sacrifices and energy of the worker would contribute to the welfare of the country as a whole, including the welfare of the worker himself. To reduce the amount of work or to demand a higher wage than the state was willing to grant was to rob the workers of the whole country. Therefore, instead of trying to get more pay for less work, the unions were urged to spur the workers to ever greater efforts.

But the old habits of thought and action were too strong for many of the old leaders of the trade unions, and it was necessary to replace them with reliable officials before the unions became completely docile. The sweeping nature of the change can be understood by comparing the aims of the C.I.O. or the A. F. of L., as we know them, with the aims of the Soviet Council of Trade Unions as expressed in 1939:

To help the workers improve their technical skill, to encourage socialist competition, to see that the workers do not get more sickness and disability benefits than they are entitled to.

The latter part of the statement draws its particular point from the fact that since 1933 the trade unions have administered the social insurance system (p. 554). This remains their most important function. In the factories, they check, at least in form, the way in which management allocates the funds for safety devices, arranges holidays, and promotes housing programs. In addition, they may raise the workers' standards of living by developing market gardens and canteens.

No trade union, of course, would consider organizing a strike to enforce certain standards for the workers. During the war Harry Hopkins apologized for the late arrival of some war materials from the United States by explaining that they had been delayed by strikes. "Strikes,"

said Stalin, raising his eyebrows, "don't you have police?"

Soviet trade unions are organized industrially, and usually include 80 to 90 per cent of all the workers in an industry, in part because membership provides special social insurance benefits. The pyramid of the trade unions rests on the factory or the shop organization, with its executive committee, and includes town, regional, republic, and central organizations and committees. They each include the ubiquitous Party fraction, and are governed by the principle of democratic centralism (p. 474). In fact, the Central Council of Trade Unions has complete control (subject to the dictation of the Party), and when the Tenth Congress of Trade Unions was called in 1949, for the first time since 1932, there was not even a free debate on policy.

### **Forced Labor**

In the background of Soviet labor policy stands always the shadow of forced and prison labor. While figures have been much disputed, former Ambassador Walter Bedell Smith estimates that, including the State Labor Reserves, there are about fifteen million in the involuntary labor pool, that is, one-eighth of the total population of the Soviet Union.<sup>8</sup> The other three groups contributing to this pool in 1949 were prisoners of war, those drawn for labor from occupied areas of Europe, and those imprisoned by the MVD without legal trial.

Our knowledge of the "camps of correctional labor" controlled by the MVD is now based on the first-hand accounts of many Poles who experienced their rigors after the Soviet Union occupied eastern Poland in 1939 but were released to form the free Polish Army in Iran after the Nazi attack, and of Soviet citizens themselves who escaped during the Nazi invasion. Most of the prisoners are said to be in the camps for political reasons—holding unorthodox political opinions, resisting collectivization, belonging to nationality groups suspected by the government, performing religious observances during the period of repression, and so forth. Some are there for breaking economic laws or failing to

<sup>8</sup> Walter Bedell Smith, *My Three Years in Moscow*, p. 121 ff.

meet their quotas. Some are ordinary criminals. Some are believed to be the victims of arrest solely to augment the forced labor supply.

Because they must undertake particularly arduous and at times secret projects, the forced labor camps are often located in remote places. Forced laborers mine gold, build dams, railroads, and factories, tend the forests, clear land, all under conditions of semistarvation and great brutality. Death rates are high, but because of the continuing streams of labor the projects continue unhalting. Whether or not there is, in fact, an economic advantage in having so large a force of unpaid labor to carry out the hardest of tasks in the most unpleasant of areas, there is a psychological advantage to the regime in keeping the so-called free workers so constantly aware of the dread consequences of relaxing their efforts.

## V. THE MANAGERS

In the Soviet Union there is no such distinction between the government official and the businessman as is familiar to Americans. Every industrial or business manager in the Soviet Union, as well as each of his workers, is a state employee. Every enterprise is as much a part of the government service as is a department in a ministry. Thus to describe the personnel of the public service in the Soviet Union is to describe the work of almost everyone in the country.

Since the energies of the Soviet Union are concentrated to such a vast extent upon industrial production, it is hardly surprising that the outstanding "public servants" in the country are the industrial managers. The distinctive characteristic of a manager is that, within the limits of the Plan, he is entrusted with the operations of his own particular part of the public economy. A minister is considered to be a manager just as much as is the head of a factory, the difference in their work being one of scope rather than of kind.

As a result, there is much less difficulty in moving from a position as manager of an enterprise to an important position in a ministry than would be the case in the United States, Great Britain, or France. Former factory managers now occupy many of the highest administrative

posts both in the Soviet government and in the Communist Party.<sup>9</sup> Since the government directs industry, both governmental and industrial posts require much the same qualifications: technical knowledge of industry, efficiency in handling work and people, and a strong commitment to the purposes of the Party and state.

## *The Evolution of Industrial Management*

In the early days of the Soviet Union it was not easy to find people who had the necessary knowledge of industry combined with loyalty to the regime. Nonparty specialists (who had received their training during the Tsarist regime and who had belonged to the bourgeoisie) often were given responsible positions but shared their authority with less expert Bolsheviks. During the transition to the first Five-Year Plan these nonparty specialists were sometimes accused of "wrecking" activities, a term which often meant nothing more than a failure to attain impossible goals with inadequate resources. But suspicions arising from their class origin led to the familiar round of purges and political trials. It led also to a new policy of developing political loyalty and technical skill in the same person.

### THE "RED" SPECIALISTS

This new policy was applied in two ways. For one thing, the old Communist managers were given leaves of absence to get technical training. But even more effective were the technical schools, developed to train "Red specialists." Large numbers of workers were rushed through these schools in the hope of providing members of the proletariat with the training to enable them to assume managerial responsibilities. In 1928 it was decreed that 65 per cent of all new applicants had to be workers and that at least 1,000 active Communists were to enter engineering schools every year.

Despite their proletarian background, the products of this training were more concerned with speeding production than with making

<sup>9</sup> There are, of course, other types of positions, such as those in the diplomatic service, which are of very different character and hence require different training and experience. But the men in these positions are far fewer, and they are of a less clearly defined type, than those in industrial management.

conditions easier for the workers. Thus, in a Russian novel of the time, the manager of a trust declares that no effort must be spared in building a great industrial enterprise "even if the worker has it three times as bad as in the old days." Much was accomplished by the managers and technicians of the middle 1930's, though their work showed the lack of sufficient systematic training. During the purges of 1936-38, however, many of them suffered serious penalties, of which complete removal from office was one of the less severe. What was especially striking was the extent to which party members were the victims of this purge.

#### THE NEW TECHNICAL EXPERTS

The mass turnover in industrial management and administration after the "Great Purge" brought still another group into power. The new managers were usually young engineers, not long out of school, but with a much broader and more systematic training than the "Red specialists." Though they had been brought up as members of the Communist Party, their interest was in their profession rather than in political problems. They were unquestioning adherents of Stalin, to whom they attributed the progress of the industrialization program and the increased international strength of the Soviet Union.

The new managers were no more concerned about the low standard of living of the workers than their predecessors had been. "They were educated," writes an expert observer, "to the idea that a society with a developed industry and without a capitalist class corresponds, *ipso facto*, to the ideal of a 'classless society,' and that to strive for social equality would be mere 'petty bourgeois leveling.'" Their interest was in "a strong State to build a national economy."

This group of young engineers and technicians came to typify the class of industrial managers, who in 1937 already numbered three-quarters of a million out of about ten million "intelligentsia" in the Soviet Union. They were first appointed to head or assist in industrial enterprises. Increasingly they have been picked for high posts in the ministries, often when they are still quite young; for example, when the Ministry of Heavy Industry was split into six smaller ministries in January 1939 the eldest of

the new heads was forty-six, and four of the others were between thirty-five and thirty-nine. In 1943 one-third of the ministries were headed by men who had formerly been managers of industrial enterprises, many rising directly from the office of plant manager. Not surprisingly they are often said to be much more like the general managers of big corporations than like civil servants. Thus, quite naturally, the managers of industry tend to become the leaders of the government which manages the economy.

This is the most striking development in the recent history of the Soviet Union. It marks a new series of relationships between management and the Party, relationships which are still in process of evolution. It raises questions important not only for the Soviet Union itself but also for other countries. How are the managers recruited? What training and what incentives do they receive? Can supervision from above be combined with initiative at the local level? Are the managers a new and self-perpetuating elite in the Soviet Union?

#### Selecting the Managers

There is a State Commission on the Civil Service in the Soviet Union which performs most of the functions handled by the Civil Service Commission of Great Britain and the United States, except the important one of recruitment. Set up in 1935 as a part of the Commissariat of Finance, the State Commission on the Civil Service became in 1941 an independent agency, with responsibility to the Council of Ministers as a whole. Subject to its approval, and working closely with the Ministry of Finance, it establishes job classification systems and efficiency charts. One of its particular problems is to keep administrative staffs from becoming too large and to shift personnel from office desks to field work.

Actual recruitment is in the hands of the particular ministries, a fact which originally tended to turn departments, trusts, and even factories into strongly personalized organizations, particularly under the First and Second Five-Year Plans. During the purges of 1936-38 it was common to have a large number of subordinates brought to trial whenever a leading official was prosecuted because their dependence on him for



reappointment or promotion opened them to suspicion. Partly to avoid the reappearance of personally controlled organizations, and also to improve the standard of personnel, greater emphasis was placed subsequently on the appointment of managers who had technical knowledge and the ability to meet operational problems. Stalin declared that managers should be less of "the 'office chair' and 'meeting table' type," and *Pravda* wrote in 1943 that efficient management demanded "a thorough grasp of . . . economics and intimate knowledge of all detail."

#### TRAINING FOR MANAGEMENT

The kind of training for management which is now provided in the Soviet Union differs from that favored in the United States or in Great Britain. The Russians have little faith in the study of administrative techniques such as is provided in American courses or schools of public, personnel, or business administration. Still less do they favor the broad cultural training in the liberal arts on the basis of which the administrative class in Great Britain is selected. The Russians believe that training for management should be technical training, and that study of administrative organization and economics should be undertaken in close conjunction with the operations of a particular industry.

Many of the major administrative bodies in the Soviet Union now have their own training schools. In the Planning Academy of the State Planning Commission training is mainly in economics but is closely related to the technical problems handled by the Commission. Each of the ministries which deals with economic problems has an academy under its jurisdiction which gives technical training in the particular field of work of the ministry (e.g., electricity, machine tools) and combines it with administrative work.

A firsthand account (1943) of the training school of one of the larger ministries speaks of the students as including almost all the nationalities of the Soviet Union. The average age was thirty, since most had had ten to fifteen years' working experience before entering the academy. They were described as "practical, hard-boiled, capable men (and women) with a good knowledge of the industry at the point of production" who "had been chosen in the main for

their ability to get things done." The academy course was three to five years in length and included administrative work in various fields. There were comprehensive courses in economics and politics as well as a detailed study of the organization of the industry in question.

#### THE STRESS ON SPECIALIZATION

The new type of manager is a product of Soviet education. He reflects its emphasis on technical equipment, its highly pragmatic character, its concern with theory only as an aid to practice. He is trained to become a production expert, and usually with considerable success. He is drawn either from those who have demonstrated their qualities of leadership on the job and are subsequently given technical training, or from the engineers and technicians who have proved their administrative capacities in the field of production. In either case, he is a specialist with technical training.

That the Soviet Union entrusts its major administrative responsibilities to men of this type seems to reinforce the arguments of those in Great Britain who maintain that too few administrative responsibilities in that country are placed in the hands of experts, at least in the national sphere (p. 155). It is true that administrative responsibilities in most Soviet ministries are more exclusively economic, and more narrowly specialized, than in most British or French ministries. But as the governments in Great Britain and France assume more responsibilities in the economic sphere it seems likely that they too will place increasing dependence upon technically trained specialists for administrative action.

#### *Public Service Supervision and Incentives*

One of the key problems of any public service is to encourage personal initiative while maintaining central supervision and control of all activities. The device of the public corporation, as used in Great Britain, the United States, and France, meets this problem by combining independence in day-to-day action with ultimate responsibility to the legislature and executive. Enterprises in the Soviet Union have far less independence of action because of the need to meet the requirements of the centrally imposed



plan. However, far more publicity is given the efforts of individual persons in the Soviet Union than in Great Britain or France, where civil service "anonymity" may protect inefficiency, though it may also cloak great achievements.

#### PENALTIES

The policy of punishing managers and technicians severely for failures and mishaps sometimes appears to be an obstacle rather than an incentive to the display of initiative. Particularly among lower officials, the fear of dismissal, demotion, or of a worse penalty, such as physical punishment or a term in a corrective labor camp, has often resulted in excessive timidity and caution, an unwillingness to exercise imagination or to take risks. There is a natural feeling that so long as one follows orders exactly one cannot be blamed for any mishap: the responsibility is that of the official who issued the order. And there is a tendency for each official to ask his superior to make the necessary decision when problems arise. In this way officials at the top of the hierarchy may be overwhelmed by the amount of work forced upon them by subordinates reluctant to accept responsibility. On the other hand, those officials who are not in a position to leave vital decisions to others, or who are held responsible for a high production quota assigned from above, may be stimulated to superhuman efforts.

#### REWARDS

If penalties for failure are severe, rewards for achievements are correspondingly great. The manager is a kind of efficiency expert who demonstrates his capacity by meeting and, if possible, surpassing the goals which have been set for him. To overfulfill a part of the Five-Year Plan is a matter of nation-wide self-congratulation, and those responsible become popular heroes. To bring actual costs of production (i.e., the amount of labor and materials going into a product) below planned costs is the mark of successful technicians and managers. The manager who thus distinguishes himself may receive a large personal bonus, and he may retain a portion of the factory's unexpected profit for use in a "manager's fund" from which incentive payments may be given to workers—a device which further increases his influence

in the factory. Most important of all, the successful manager is likely to be selected for greater responsibilities carrying more prestige. In addition to personal glory, financial rewards, and power, there are also the less tangible incentives which influence businessmen and public servants in any country: recognition of the importance of the work, and desire to do a good job.

#### *Management and the Party*

But what about the relationship between management, whether in industry or in administration, and the Communist Party? In 1929 the Party itself declared that the manager was in sole and complete charge of his plant or office and that his "operational-economic orders" were "unconditionally binding" on all personnel "regardless of what posts they occupy in Party, trade-union, or other organization." But Party organs in particular enterprises still watch all details of administration within the plant and, according to the Party Conference of February 1941, "systematically 'bore into' the affairs of industrial plants . . . and help directors in their daily work of industrial management."

There is one radical difference, however, between the supervision of management by local Party members in the period before 1929 and in the period of the Third and Fourth Five-Year Plans. In the early period Party members in a particular enterprise kept a close political and ideological check upon managers, who often were not Party members and whose "class origin" frequently opened them to suspicion. Today Party members supervise only the practical working of the enterprise, and Party organs have become one more instrument of administrative control over the operations of industry, not a special watchdog of orthodoxy, because the managers themselves are now members, and often prominent members, of the Party. They are prominent not only because of their unquestioning loyalty to the regime, but also because of the increasing interest of the Party itself in the problems of production. The Party is no longer mainly a "workers' party" but rather a "producers'" party, whose highest offices are often filled by the new industrial man-

agers (p. 476). Under these circumstances Party and administrative controls are often exercised by the same person, or at least by people of relatively similar background and training.

### ***Are the Managers a New Elite?***

The importance of the role of industrial managers in the Soviet Union raises the question of whether they may be a new and perhaps self-perpetuating elite. Some evidence in support of this view comes from the educational regulations introduced in 1940 under which only the children of skilled workmen and of the intelligentsia could easily secure those opportunities for education essential for the higher posts in the Soviet Union (p. 551). Moreover, some observers believe there is evidence of a deliberate policy of fostering the continued rule of the group of industrial managers which has already penetrated into all the sources of power in the

Soviet Union. Others question the permanence of the educational restrictions and doubt that an elite of industrial managers could have entrenched itself since the purge of 1936-38.

Only time can tell which of these suppositions is correct. But in either case the very nature of the Soviet planned economy and the emphasis on continued heavy industrialization will continue to place industrial managers in positions of leadership. They form a group which appears to answer at least two of the criteria laid down by Donald Kingsley in *Representative Bureaucracy* (p. 160): they are deeply committed to the general purposes of the regime, at least so long as the regime continues its policy of reward according to achievement, and they are men of "push and go." It is less certain that they are men who put the immediate welfare of the common people higher than the particular objectives of the ruling group.

## CHAPTER 7

# Local Organs of Soviet State Power

The characteristic feature of Soviet administration is the extent to which all national and local government bodies are integrated. It is significant that Soviet law does not use the expression "local government" or "local self-government" but refers always to the "local organs of state power." Yet these organs are not looked on as "branch offices" of the central government, nor are their chief officials appointed by the central government as is the French prefect (p. 370). Administrative and legislative activities in the local sphere are carried on by locally elected soviets, but complete harmony with the central authorities is maintained by the fact that the decisions of any soviet may be overruled by a higher soviet (the town by the district, and so on up to the Supreme Soviet). The official explanation of the extraordinary similarity of decisions at all levels is that the classless nature of Soviet society leads naturally to unanimity between all executive and administrative bodies and the people who elect them. In fact, it arises from the complete control at every level by the centrally organized Communist Party.

### I. THE RELATIONS BETWEEN THE NATIONAL AND LOCAL GOVERNMENTS

Lenin taught that there should be "centralized supervision and decentralized activity." The translation of this maxim into practice has meant that in the Soviet Union, local units, which range in size from the Union Republics to the villages, are neither restricted to nor guaranteed certain spheres of action. Even defense may fall within their scope, so that areas sur-



rounded by the Nazis during the war already had the administrative organization for preparing their own defense. The Russians declare that each soviet, down to the town and village, is a "miniature Supreme Soviet." Yet at any moment a higher soviet may issue orders which override the decisions of the lower body.

### *Distribution of Work Between National and Local Governments*






Local authorities in the Soviet Union thus undertake a much wider range of activities than in countries like the United States, Great Britain, and France. They not only administer facilities for education, health, and social welfare, but also theaters, movies, and forms of communication like telephones. In addition to providing customary services like water, sewerage, gas, and transportation, Soviet towns and cities operate banks, build houses, administer hotels and warehouses, and run most of the retail trade of their area. Until recently they also controlled a large and varied group of industries, mainly concerned with consumption goods, but these were transferred after World War II to All-Union ministries (p. 495).

Certain of the activities of local organs arise naturally from the nationalization of land and property in the Soviet Union. Since there are no private landlords, the local authorities build housing accommodations in their districts and control their use. Since there are no private food shops or wholesalers, the local government must acquire and distribute food supplies and in consequence run the restaurants and public dining rooms. Local authorities also inspect the work of all enterprises in their area to see that their performance is in conformity with the

# POLITICAL SUBDIVISIONS OF THE U.S.S.R.

-  UNION REPUBLICS  
OTHER THAN R.S.F.S.R.
-  AUTONOMOUS REPUBLICS  
WITHIN R.S.F.S.R.



-  INTERNATIONAL BOUNDARIES
-  BOUNDARIES OF UNION-REPUBLICS
-  BOUNDARIES OF REGIONS, TERRITORIES AND AUTONOMOUS REPUBLICS
-  BOUNDARIES OF NATIONAL AREAS
-  CAPITALS OF UNION-REPUBLICS

national plan. In addition, they are responsible for the observance of law, order, and civil rights.

For local authorities to have so broad a range of functions is unusual. But to the American or English it is more significant that all these functions are exercised under the control of higher authorities. Local organs operate in practice with just about the same amount of freedom as the manager of a small enterprise. They make proposals; they may draw up programs. But generally their activities are restricted to carrying out centrally approved plans. Thus their action in fact is limited to choosing the best means of carrying out predetermined objectives.

A certain amount of autonomy, it is true, is possessed by Republic Ministries, like the Ministry of Communal Economy, which vary in character from Republic to Republic. This Ministry supervises transportation, water supply, development and maintenance of electric power, garbage disposal, and other public services. Through such Ministries is provided a limited amount of decentralization. But in general, despite the range of local responsibilities in the Soviet Union, control by central authorities is no less complete than in France.

### **Local Government Finance**

Budgetary arrangements also follow the progression customary in the Soviet Union. Each local unit makes out a statement of its requirements for the coming year and estimates their cost. This estimate is passed to the next highest authority, which goes over the list, approving or disapproving each item, adds its own requirements, and passes it still higher. The village or town budget goes to the district; districts and cities send theirs to the region or Union Republic; the Union Republics present their composite plans and estimates to the Supreme Soviet. Final consideration, and approval or disapproval, is left to the State Planning Commission, working with the ministries. Each item must find its place within the general Five-Year and One-Year Plans, since raw materials, labor, and finance are all considered and allocated nationally.

Once the final decisions have been made, the process goes into reverse. The authority to

spend money is passed down through the different units until it finally reaches the cities, towns, and villages. At the same time taxation quotas are assigned, for the local authorities are responsible for collecting the taxes through which the national economic plan is financed (p. 515). Authority to spend means only that the local organ can keep a certain proportion of the taxes it collects. In addition, grants or subsidies from the higher authorities are added.

Proponents of the Russian system make a good deal of the fact that taxes are not based on the "rateable" value of property as in Great Britain (p. 164) and that poor areas, far from being penalized in the Soviet Union for their poverty, are helped by central allocations more than richer areas. In fact, a deliberate policy is followed of developing poorer and more remote areas in the Soviet Union with the aim of making them self-sufficient. But a sales tax like the turnover tax, when it falls on necessities as well as luxuries, as in the Soviet Union (p. 515), is much harder on the poor than on the rich.

## **II. THE UNITS OF LOCAL GOVERNMENT**

The units of English local government, complicated as they are, are far less complex than those of the Soviet Union.

### **Nationality Divisions**

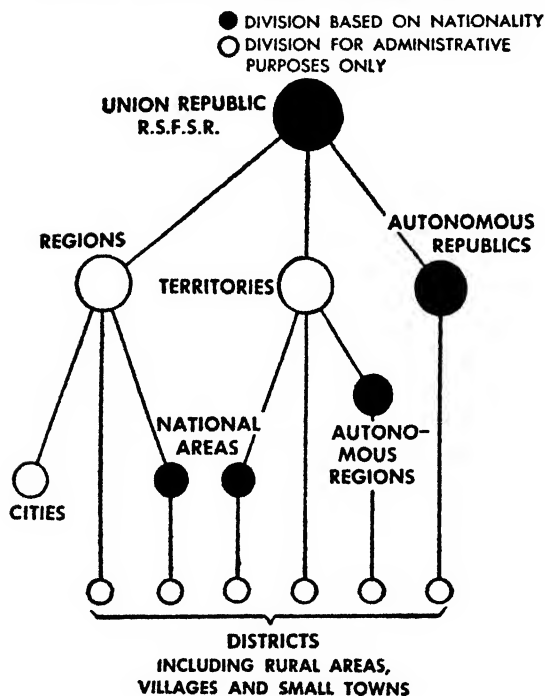
The first and so-called federal division of the U.S.S.R. is into Union Republics. These vary widely in size, for each of the Union Republics is supposed to represent one national group, the majority of whose people reside within its boundaries (p. 460). Smaller national groups are organized into *autonomous republics*, *autonomous regions*, and *national areas* (okrug), which are progressively smaller in size, reflecting the numbers of the particular national minority.

### **Administrative Divisions**

Another and intersecting series of divisions is made for administrative purposes. The two largest divisions of this type are the *territory*

(krai) and the *region* (oblast). The territory is usually larger than the region and may include nationality divisions like autonomous regions and national areas. The administrative regions, of which there were 80 before the war, naturally contain no autonomous regions but may include national areas. The regions vary greatly in size, the Moscow Region including 2,000 villages and 42 towns, as compared with only 41 villages and one town in the South Ossetian Regions.

### STRUCTURE OF LOCAL SOVIET ADMINISTRATION



Both nationality and administrative divisions include *districts* (rayony), which are units composed of rural areas, villages, and small towns. There were 3,500 of these in 1938 and 4,000 in 1947.

At the base of this pyramid are the *cities* and *towns*, the *town-hamlets* and *hamlets*, and the *villages*. In 1939 there were 934 cities and towns, 1,938 town-hamlets and hamlets, and about 70,000 villages. By 1951 the steady and impressive growth of urban centers throughout the Soviet Union in response to the industrialization program had increased the number of cities to

over 1,200. Cities of more than 100,000 people may be subdivided administratively into urban districts or wards, Moscow, for example, having 24.

The small towns and villages form part of the district and are therefore supervised by the district soviet. Medium-sized towns come under the jurisdiction of the region or territory. Larger towns and cities and the metropolitan centers of the Union like Moscow,<sup>1</sup> and autonomous republics come directly under the Union Republics.

The most distinctive feature of the units of local government in the Soviet Union is the nationality divisions, which can be justified chiefly through the formal recognition they give to the policy of maintaining the identity of the different nationality groups in the country. But there seems little justification for the present administrative divisions. The territories and regions are too large and the districts too small for handling such large scale responsibilities as public health or drainage plans. Nor are any of the units particularly well suited to directing economic activities, which rarely fit within their boundaries; indeed, this failure is possibly a further reason for transferring light industry to All-Union control (p. 507). Still, the strong centralization of authority in all fields makes the size and character of the local government units matter less in the Soviet Union than in England, although the very fact of centralized planning leads to the expectation of more rationally planned units.

### III. THE LOCAL ORGANS

Theoretically the most important organ in the Soviet Union is the council, or *Soviet of Working People's Deputies*. Every administrative unit from Union Republic down to urban district has its own soviet. According to the 1936 Constitution, the members of each soviet should be elected directly for two years by all the voters in the area. In fact, no elections were held between 1939 and 1947.

<sup>1</sup> There are no special governmental arrangements for Moscow as the capital city as there are for London and Paris, though Moscow has relatively more independence from control than other cities because the national ministries are in the city.

The local soviets are responsible under the Constitution for broad functions. The soviets themselves are supposed to "direct the work of the organs of administration subordinate to them," see to "the maintenance of public order, the observance of the laws, and the protection of the rights of citizens," "direct local economic and cultural organization," and "draw up the local budget." To do all this they are empowered to "adopt decisions and issue orders within the limits of the powers vested in them by the laws of the U.S.S.R. and of the Union Republic."

But despite this extensive list of functions and powers, the soviets in practice have relatively little, if any, authority. The real seat of power, in so far as power resides in the local organs, is in the *executive committee* elected by each soviet as its executive and administrative organ. The executive committee officially has full authority between sessions of the soviet, but in practice directs all the activities of the latter at all times,<sup>2</sup> a not surprising parallel to the operations of government at the All-Union level. In areas where the executive committee is large, control is centralized in the hands of the *presidium*, a small group elected by the executive committee as an inner executive.

Local government in the Soviet Union thus has two characteristic features, each of which is strongly marked: a broad basis of popular participation in local governmental activities, but at the same time complete centralization (of the limited authority left the local organs by centrally directed planning) in the hands of a small governing group which, in practice, is far less responsible to the soviet of its area than to higher executive organs and to the Party.

### Popular Participation

Much of the machinery of local government in the Soviet Union, like that in the national sphere (p. 488), seems designed to provide opportunities for active participation in public affairs by the largest possible number of people.

<sup>2</sup> The Constitution states specifically that the executive organs of the soviets are responsible not only to the soviet "which elected them" but also to "the executive organ of the superior soviet." This is a clear indication of the intention to have power exercised by the executive organ, for there is no mention of the responsibilities of the soviet itself to other authorities.

In the words of Stalin, the soviets are "a school of government for tens and hundreds of thousands of workers and peasants." In this way, he added, they "bind the masses to the regime." It is the soviets rather than the Party which are designed to provide outlet for the creative activities of the people (but see p. 484).

Popular participation is secured in the first place by direct elections. As in the national elections, many candidates may be nominated, but through a process of elimination in the course of campaigning only one candidate is left by the time of the election. Not surprisingly, it is always the candidate supported by the Communist Party, although this candidate is not necessarily a member of the Party. The single candidate must receive at least 51 per cent of the votes or the election is held over again; but as in other Soviet elections the local candidate usually gets nearly 100 per cent of the votes and, similarly, nearly 100 per cent of the voters turn out even though there is only one candidate for whom to vote. In the elections for local Soviets in the R.S.F.S.R. in 1947, the lowest percentage of voters was 99.81.

Another peculiar feature of Soviet elections is the provision that citizens do not need to vote in their own constituencies but may exercise their franchise wherever they happen to be. Plural voting is prevented by stamping voters' cards at the moment of voting.

Deputies are also subject to recall by a two-thirds majority of the voters or by a majority decision of the section, or committee, of the soviet of which the deputy is a member. In the latter case, the section is supposed to "justify" its action to the electorate.

A unique feature of a Soviet local election is the mandate to the deputies. Various groups of electors draw up "instructions" embodying their requests for action. Over 100,000 "instructions" were filed at one Moscow election; these included the requests of 595 enterprises (with 400,000 voters) for more retail stores, of 80 groups that goods traffic should operate at night to relieve daytime congestion in the streets, and of 49 other groups for better and cheaper laundry service. All requests are listed in order of priority and printed in a large book. This volume is supposed to act as a directive for the work of



the soviet until the next election two years later, but there is no record of how well the mandates are carried out.

#### THE SIZE OF THE SOVIETS

In addition to this elaborate procedure for public participation, the soviets themselves are designed to bring a large number of people into contact with the business of government. Cities like Moscow and Leningrad have over a thousand deputies. Towns with a population of 10,000 to 20,000 must have no fewer than 35 deputies. Rural district soviets usually consist of 100 to 200 deputies but are allowed as many as 250. Even a hamlet of 1,000 people has 9 members and somewhat larger ones have as many as 25. The size depends on the number of inhabitants and on the requirements of the constitution of the particular Union Republic. The norm for villages in the R.S.F.S.R. is one deputy for every 100 to 250 persons, and for Moscow one deputy for every 3,000. Where the English, and even more the American, system of local government usually combines large constituencies with small councils, the Soviet system more often combines small constituencies with large councils. Altogether there were 70,000 local soviets in 1947 with over 1,300,000 deputies.

Meetings of the soviets are held monthly in the cities and bimonthly in the districts. They are described as informal in character but are said to possess a "natural discipline" arising from the common interests of the deputies and the absence of class or property divisions, which prevents criticisms of the executive body from disturbing their "genuine unity." The Moscow Soviet, like the Supreme Soviet, sits in rows in a room that looks like an opera house. Any member may speak, ordinarily for ten minutes, but there is little indication that many avail themselves of the opportunity though orders are sometimes issued that a minimum number of questions must be asked. At one time village soviets were ordered to discuss all matters of national importance as well as of local interest, but time and knowledge were found to be too limited.

The meetings appear to be more educative in function than anything else, except perhaps insofar as they permit the ventilation of grievances. That they are not intended to create

policy is obvious from a contemporary comment: "The Party gives the soviets directives that set the political line and direction of their work." Further, though Party members are not necessarily a majority in the local soviets, their strict discipline provides them with control of divergences, should any arise.

In the end, the purpose of the elaborate hierarchy of the soviets seems to be twofold: to provide for widespread popular participation in governmental organs, and to encourage the ventilation of grievances against local officials. Through the latter process, the masses secure the satisfaction of criticizing or hearing criticized the officials with whom they are in immediate contact, and at the same time learn some of the difficulties with which the local bureaucracy is confronted. Particularly in such troublesome areas as housing, this provides what is in effect a safety valve. Perhaps even more important for the regime is the check on lower officials thus provided. As in all "self-criticism" it is a clue to bottlenecks and a safeguard against local concentrations of power (see p. 446).

#### THE SECTIONS

The deputies not only sit in council; they also serve on one of the committees or *sections* into which the soviet is divided. These sections resemble the administrative committees of the typical English council: they too deal with subjects like public health, education, trade, housing, and local industries. Yet there are certain marked differences.

In the first place, the sections are often very large. In 1936 the Moscow public health section had 600 members, the local industry section, 170 members, the school section, 88, and the finance committee, 30. Again, as with the soviets, numbers appear to be considered good in themselves.

In the second place many of the elected members of the soviet and the sections hold jobs under the soviet itself. There is no barrier to election, as in England, because of being a public employee. For this reason teachers often sit in the education section, doctors in the public health section, and carpenters in the housing section. Those who support this practice maintain that it makes more sense than the English practice of allowing private contractors to sit on a housing committee. In any case, in view of the

practical work the sections undertake, there are considerable advantages in drawing on the experience of people working in that field, even if they are city or district employees.

The fact that public employees are members of the soviet, and of the sections, points to a still more important distinction between English and Russian practices—the lack of a hard and fast line in the Soviet Union between elected representatives and paid officials. While in the English local government committees the elected councillors work side by side with the officials they employ, the latter show considerable deference to council members and feel responsible for carrying out their orders. In the Soviet Union there is no practical distinction between an elected member of the soviet and a soviet employee, a natural result of the fact that the same person may be both.

The sections of a soviet are less powerful than the committees of an English council. Their duty is to “inspect, advise, inquire and propose.” They consider the plans of work of the administrative department with which they are associated, and work alongside it, in a somewhat subsidiary capacity. They investigate conditions in the institutions or enterprises in their field, listen to proposals from outside groups, and give their judgment on current problems to the soviet and the presidium. They have no measure of executive power, however, nor can they initiate the spending of money. It has been said that “The section recommends, advises, complains, and even demands. The *presidium* decides.”

#### THE ACTIVISTS

Another interesting indication of the emphasis on popular participation is found in groups, peculiar to the Soviet Union, called “activists.” These are workers elected by factories or other enterprises to participate voluntarily in the activities of local administration in their spare time. In 1936 there were 1,000 “activists” in the health section of the Moscow Soviet, in addition to the 600 members of the Soviet. The number of “activists” is not laid down by law but is said to be “fixed” according to the type of work to be done and the number of volunteers available.

The “activists” are thought to be a very im-

portant bridge between the local authority and the “man in the factory.” The Russians consider such work good training and consequently a means of recruiting full-time workers for the local administrative departments. The enthusiasm of “activists” and their ability in performing volunteer tasks are believed to be good tests for public servants. And the goal of public service is an incentive to the “activists” in performing their work.

#### Concentration of Local Authority

Despite this degree of popular participation in governmental activities, the center of power in local organs, as has been said, is the executive committee or presidium acting as the agent of the Party. In urban districts the executive committee usually numbers from five to eleven. In towns it consists of a chairman, two or three vice-chairmen, a secretary, and from six to thirteen members. In Moscow what would correspond to the executive committee is the *Ispolkom*, which consists of seventy members and does little except select the presidium of fifteen members. Even a most sympathetic observer writes, “The most conspicuous feature of the government of Moscow is the concentration of power and responsibility in the hands of the presidium.” He also notes that the Party’s list of candidates for the presidium has always been accepted by the soviet without amendment.

More striking evidence of the extent of Party control was shown by the decree of August 22, 1938, whereby the Central Committee must approve the nomination of first, second, and third secretaries for all district, city, and national area committees throughout the country. It is as if all candidates for municipal and county offices in the United States had to be approved by the Cabinet. This sort of checking on local officials comprises much of the work of the “Apparatus” of the Central Committee (p. 481).

The members of the presidium, or executive committee, are generally heads of the different administrative departments. At a cursory glance this would seem to turn the presidium into a kind of cabinet whose members direct departments. But the progression seems in the other direction, with the public office held prior to election to the presidium. The chairman of the

presidium of Moscow in 1936 was the head of the tramway trust. The vice-chairman was the director of the City Planning Commission. The secretary was head of the water supply trust. Others included the heads of the finance, construction, and public health departments.

This practice of choosing heads of departments to direct the affairs of the soviet is additional and striking evidence of the lack of division between elected members and officials. Despite the emphasis on elections, local activities, like national, are directed by administrative officers.

#### IV. LOCAL GOVERNMENT OFFICIALS

The activities directed by the presidium and its members (subject to the authority of higher organs and under Party direction) are carried out by a number of administrative departments and divisions.

The departments are similar to those of city or county government in the United States or Great Britain, except for their greater range of subject matter and their lack of autonomy. They are concerned with services in the fields of public health, education, town planning, social insurance, trading (public eating places, stores, inspection for price and quality), land, construction projects, parks and green belts, housing allocation, finance, roads and river banks, below-street work (sewers, cables, etc.), veterinary needs, and so forth. The public health department supervises hospitals, nurseries, maternity consultation centers, and so forth, all of which are publicly owned and provide free services to members of the community. The housing department allocates living accommodation and supervises the house managers. The education department supervises schools and kindergartens. Each is responsible not only to the presidium but also to the relevant department in the administrative unit directly above.

The distinction between departments and divisions is not very great. Departments supervise services for which the local unit employs its own direct labor; divisions, those services whose labor is grouped under trusts (p. 508) operating on a Union-Republic or even All-Union basis. (In Moscow, for instance, trusts operate in light in-

dustry, building, inspection of buildings, house management, transport, telephones, broadcasting, banks, arts, entertainment, mail service, and newspapers.) But even when a soviet normally employs its own labor, as in the work on riverbanks, there are occasions when it is necessary to call upon other sources, as for example, the Bridge Trust. Another difference is one of budgeting, since trusts have their own budgets as well as personnel and plan of work. However, centrally unified budgeting for the whole Soviet Union makes this only a matter of bookkeeping.

#### *Local Government Staff*

The number of people directly employed or supervised by local organs in the Soviet Union far exceeds the number serving under an English or American local government. The Moscow public health department alone employed 40,000 people in 1936. The total number working under the city of Moscow in that year was 350,000, about one-third the total number of local government employees in the whole of England and Wales, which had about ten times the population.

Neither for the personnel of the departments nor for the workers under the trusts is there a systematic means of recruitment. As with national departments and ministries, recruiting is extremely decentralized, each official appointing, and having the power to dismiss, the officials immediately below him. Vacancies are filled as they occur, without reference to fixed standards, except for technical or professional work.

There are two kinds of staff organizations in most local government departments: the shop committee, representing the workers, and the professional association, representing technical and professional personnel. Though opinions vary on their effectiveness, it seems likely that staff organizations provide no more active protection of labor interests in the local areas than in the national (p. 519).

Specialists hold high administrative positions in the local, as in the national sphere, and the results seem to have been equally good. Some large units have established their own training schools attached to the local administration, though under the general direction of the appropriate ministry. Moscow's Academy of Mu-

nicipal Economy (established 1932-33) carries on research, but also trains men and women for research and for practical administration. The course lasts two and one-half to three years, and theoretical instruction is combined with practical experience. As in other similar institutes, the emphasis is upon technological and scientific problems, and the broader aspects of administration as a social science are ignored.

### ***Relation of Departments and Sections***

The departments and divisions work with the sections, as already indicated (p. 530); but they are not subject to the direction of the sections nor is there duplication of effort. The department of education, for example, supervises the schools, while the section visits the schools and assists the department. The departments carry the weight of authority; the sections merely assist them by interpreting public opinion and gaining a measure of public support.

Thus there is the same relationship between the administrators and the elected members of the soviet on the level of detailed administration as on the level of policy. The members of the section advise and assist the departments, as the members of the soviet advise and assist the executive committee or presidium. As elsewhere in the Soviet Union, and contrary to what Western people accept as the characteristic relationship between elected bodies and administrators, the person who is doing the job determines how it should be done.

## **V. EVALUATION OF LOCAL GOVERNMENT**

Two questions may be asked regarding the Soviet system of local administration: Is it efficient? Is it democratic?

### ***Is Local Government Efficient?***

Three factors make it much easier for Russian local units to act more quickly and effectively than comparable British or American units. In the first place, there is no division of responsibility, no problem of jurisdiction. Lesser units cannot block the plans of higher units. City

planning in one place does not proceed on a different basis from city planning in another. Hence we are promised uniformly beautiful skylines in all Soviet cities, graduated from the highest buildings in the center to the lower ones on the outskirts—always assuming that material will ultimately become available.

In the second place, there is no division between parties. The Communist Party dominates, or pervades, all discussions in elected bodies, with a resultant "natural discipline" which is said to be the outcome of the common interest of all working people.

In the third place, there are no landlords or private owners. No problems of expropriation or compensation arise when public plans necessitate the use of property or land, for both belong already to the city or district. Broad streets can be cut through formerly crowded quarters in Moscow, while London's County Council and business interests dispute about the rebuilding of the bombed areas behind St. Paul's.

However, there is an immense amount of checking and rechecking in the Soviet system. Central planning and central financing, which just because they serve as a kind of strait jacket, may well be more efficient in big national construction and production enterprises than in local projects, necessitate settling at the top those problems which in Great Britain and the United States are handled independently by local governments, or under general supervision. Thus the Soviets have less flexibility in the local sphere.

### ***Is Local Government Democratic?***

In some respects the system may be said to be democratic, if the term is used broadly enough. Election campaigns are followed eagerly: deputies are looked on as public representatives. Further, there seems strong continuing public interest in local activities, and little difficulty in securing able and devoted volunteer help for public services. Local citizens seem to feel that the government is "their" government, and act accordingly. There are few local governments in Great Britain or in the United States which would not welcome such interest and support.

When it comes to effective influence, however, the element of democracy fades. There is a striking difference between the appearance of popular control and the way in which local affairs are run. Constitutionally the soviets are vested with power, but in practice they do not exercise it. The enthusiastic fervor of elected deputies and "activists," to which observers testify, makes a strange contrast, to pragmatic

Western people, with the obvious centralization of authority in administrative and Party hands.

The most difficult question to answer is: Why has the Soviet government erected such a vast system for popular participation in local affairs if it intends indefinitely to withhold power from the populace? Lenin popularized the slogan "every cook must learn to govern." What will happen when they all have learned?

## CHAPTER 8

# Soviet Law and the Soviet Courts

### I. SOVIET LAW

Both the Soviet Constitution and individual statutes and decrees abound with the phrase "according to the law." But the Soviet conception of the nature and function of law differs sharply from that held by Western democratic states. The latter look on law as a body of rules, equally binding upon private persons and government officials, administered by independent courts, and amendable only by regular and accepted political processes. Moreover, in countries like the United States and Great Britain, which have a common law system (p. 177), rules of law are modified by judicial decisions, based on precedents and justified by logical legal argument. In the Soviet Union, however, public interest (which usually means the interest of the ruling group) is always superior to the interests of individuals. Thus in cases involving public interest, law is determined by the will of the government at the particular moment and is not an impartial standard by which the acts of individuals and government agents can alike be judged.

It is the official assumption in the Soviet Union that the state, as a proletarian state, embraces all the interests of its members and is the chief means through which these interests are advanced. Thus, if the policy of the state should conflict (in a given situation) with what a particular law defined as the "right" of an individual, state policy would be assumed to be superior since it would be the more dynamic reflection of "the will of the working class." As a natural consequence, the Soviets reject the belief of the Western democratic states that the individual should be guaranteed a certain sphere

of activity free from all interference on the part of the state (p. 174).

The characteristic notions of Soviet law have developed out of Marxist ideology but law in the Soviet Union today is far more important than Marx and Engels ever conceived it would be—an indication of how different the Soviet Union is today from the state Marx and Engels envisaged.

### *Marx's Conception of Law*

The views of Marx and Engels arose naturally out of their reaction to the societies within which they lived. Both men were highly critical of the laws which existed in bourgeois states. When other writers maintained that the laws governing society were the reflection of principles of universal justice, Engels replied that "the jurist imagines he is operating with *a priori* principles, whereas they are really only economic reflexes. . . ." Marx and Engels believed that law was only a tool of the state, which in turn was the instrument of the dominant group in society. The law of the bourgeois state, declares the *Communist Manifesto*, "is but the will of your class made into law for all, a will, whose essential character and direction are determined by the economic conditions of existence of your class."

Both Marx and Engels were equally critical of the way in which laws were administered in bourgeois states. Marx considered that the notion of equality before the law was a cloak for actual inequality, partly because some people could not afford the best lawyers or the expenses of legal proceedings, but even more because judges, he believed, were predisposed to the interests of property, while the laws on which

they founded their judgments were designed to protect the interests of the ruling group.

Marx's criticism of existing states and existing laws led him to believe that the ultimate goal was a society where coercion would be unnecessary. In the advanced stages of socialist society, the absence of economic exploitation would leave everyone free to act according to his own interest, which would be the interest of the whole group. Thus the oppressive functions of the state would "wither away" as people began voluntarily to perform the acts they had previously performed perforce. Laws would therefore become unnecessary, Marx and Engels believed, and fixed rules governing conduct would be replaced by the power of public opinion.

At the same time, they foresaw that the state "as an organization of coercion distinct from society," and laws as fixed rules according to which conduct would be measured, would be useful to the working class in their struggle to expropriate the bourgeoisie and to smash its resistance after the revolution. During this period Marx foresaw that it would be necessary to change the laws so that they would not favor the interests of property, to change the personnel of the judiciary so that it would be sympathetic to the interests of the working classes, and to eliminate the procedural intricacies which provided lawyers with the chance to find loopholes through which to protect property against the claims of "simple justice." However, he believed that the period would be short and that coercion could begin to disappear as soon as the exploiting classes were eliminated.

### **Lenin's Views on Law**

Lenin had already made some modifications in Marx's views on law before the revolution took place. He foresaw that there would be a long period between the crushing of the bourgeoisie and the achievement of a prosperous communist society and, in the interval, he believed it would be necessary to retain some bourgeois law (p. 429). He felt too that though most crimes in bourgeois society resulted from economic conditions which would be removed when communism was achieved, there would still be individual excesses in the intervening period of the socialist state. Hence, he believed that co-

ercive law would be necessary throughout this period to enforce labor discipline, to regulate the unequal distribution of the products of society, and to curb individual excesses.

### **The Evolution of Law in the Soviet Union**

#### **THE PERIOD OF WAR COMMUNISM, 1917-1921**

When the revolution broke out in 1917 Lenin pressed for "revolutionary legality," that is, that the organs of the new regime should not act arbitrarily but observe the rules which the government adopted. But the rapidity of the changes, the circumstances of civil war, and the great decentralization of activity meant that law quickly lost the element of predictability and uniformity. Punishments inflicted by the courts were determined "by the circumstances of the case" and by "the Socialist consciousness of justice." The rules enforced were a blend of party programs, individual interpretations of socialist needs, and existing laws, of which only those passed by the Soviet government were officially binding.

All prerevolutionary courts were abolished *en bloc*. But it was more difficult to establish alternative organs. The decrees affecting the People's Courts changed their structure with bewildering rapidity but, in any case, were not enforced. While there were some of these local courts, composed of nonprofessionals, that handled minor cases, criminal offenses were dealt with by the Cheka and other revolutionary tribunals, which acted without regard for legal processes. Thus there was little, if any, machinery for protection of private rights.

This period of War Communism (1917 to 1921) saw the establishment of certain important principles of the Soviet State: its exclusive ownership of basic economic resources (land, water, industry, and so forth), the monopoly by the government of major economic activities (banking, insurance, foreign trade), and ultimate governmental authority over such private property as was still permitted. But economic conditions were still too chaotic to be reduced to law except in the broadest terms.

In regard to the personal relations of citizens, some decisive steps were taken, like the civil registration of marriage and the divorce law. Be-



cause of this a recent authority, Mr. Rudolf Schlesinger, in a book entitled *Soviet Legal Theory*, has declared that the effective changes in this period were those of a "great bourgeois revolution with the principles of 1793 adapted to twentieth century conditions," that is, the establishment of the personal freedoms applicable to modern times (see p. 551).

#### THE NEW ECONOMIC POLICY, 1921-1928

The period of the New Economic Policy saw the organization of the new court system and the promulgation of basic codes of law. The People's Courts, with one judge and two assessors, regularized the use of nonprofessionals in the lower courts. These courts were to apply the decrees of the "workers' and peasants' government," or if these did not cover the situation, to use "the sense of justice of the working class." Superior courts were set up with power to review the decisions of lower courts.

All courts were dependent, however, on the state organs which passed the laws, and the chief result of establishing superior courts was to secure greater central control of local jurisdiction. Thus there was no effective distinction between the court structure and the legislature and administration (which were themselves barely distinguishable).

The Civil Code issued in 1922 was patterned to some extent on the most advanced of Western European codes, the German and Swiss, but shaped by the "revolutionary consciousness" of the period of War Communism. Though the New Economic Policy appeared to accept private enterprise, it was in this period that the foundation for Soviet law in the economic sphere was laid. Private enterprise was permitted, in fact, only to the extent that it did not interfere with the state's program of nationalization. The first article of the Civil Code declared that "Civil rights shall be protected by law except in instances where they are exercised in contradiction with their social-economic purpose." This provision justified in the Soviet view the withdrawal of all rights from the "Nepmen" once they were no longer useful to the state. Thus social purposes were elevated far above any individual rights.

A similar disregard of individual rights appeared in the extensive use of the rule of anal-

ogy, which nullified the Western principle of "no penalty without a law" under which *ex post facto* laws (i.e., laws with retroactive effect) are forbidden. The rule of analogy, as used in the Soviet Union, means that any act which a judge considers to be similar to a punishable action is *ipso facto* a crime. Under this rule acts were punished which had been committed under legal orders in the prerevolutionary period. Moreover, current crimes and penalties were determined according to particular circumstances and the views of the judges. In making these decisions, both in regard to civil rights and to crimes, the relation of the act to the policy of the regime was of paramount importance. Thus a member of the Communist Party would probably be punished more severely for a breach of labor discipline than an ordinary citizen, because it was more dangerous to have a member of the ruling group act contrary to the rules of the regime. It was almost certain that kulaks would suffer more than peasants for hoarding or overcharging just because they were a potential threat to the ultimate socialist purposes of the regime.

Despite this use of law as a flexible instrument for the purposes of the regime, the tendency under the New Economic Policy was towards codification of law and a more systematic organization of the courts. With the steady advance of socialization, however, the questions which Marx had raised became more pressing. Had law a place in a socialist society from which capitalist elements had been eliminated? And if so, what character would it assume?

#### THE FIRST FIVE-YEAR PLANS, 1928-1937

The first Five-Year Plans provided part of the answer to these questions. They constituted the second great revolution in the history of the Soviet Union, a revolution which was the result of planning.

Where War Communism had been the result of spontaneous action by numerous local groups which received little government direction, the revolution of the Five-Year Plans was instituted and carried through by the Soviet government. This latter revolution required, therefore, a certain measure of formal legality. Rights exercised under the NEP were withdrawn or abolished by decree. Similarly the conditions under which

the new collectivized agriculture was to function (e.g., the organization of the collective farms and the distribution of their products) were prescribed by decree.

But if one looks beyond the mere matter of form, it is clear that such ruthless and radical changes as were involved in the elimination of the kulaks (pp. 457, 504) were revolutionary in character. In the words of Rudolf Schlesinger, they "lacked the elements of generality and certainty demanded of any law in an established social system." Even official apologists, like Vyshinsky, admitted that the legal system had been broken in order to meet this problem of revolutionary transition. The justification was the customary one: the needs of the socialist society were superior to any laws which it might have established.

Not surprisingly, some Soviet theorists were now convinced that, since capitalist elements were being entirely eliminated from the Soviet state under the Five-Year Plans, there would no longer be any need for law and judicial proceedings. In other words, law as an essentially bourgeois institution would "wither away." They believed that the great revolution of the first Five-Year Plan marked the end of Marx's initial stage of socialism and that "public opinion" would henceforth be the regulating force in society.

But this view soon lost official favor. The more changes there were to make, the greater was the emphasis on legal rules backed by coercive penalties. Even when the new economic forms in agriculture took definite shape and social relations arising out of nationalized industry and collectivized agriculture became more stable, there was no change in official attitude and policy. Law was declared to be the instrument of organization of the socialist society. Like the state, law became accepted officially as normal in the socialist stage of development.

### ***Law in the Socialist Stage of Development***

Soviet laws and procedures, as indicated by the 1936 Constitution and subsequent laws, decrees, and practices, are a curious mixture of Western concepts and distinctively Soviet features. This fact is illustrated by the character

of the rights and duties of Soviet citizens, and by some of the features of civil and criminal law in the Soviet Union.

#### **THE RIGHTS OF SOVIET CITIZENS**

At first glance the statement of personal rights in the 1936 Constitution seems to have marked similarities to the historic declarations of rights drawn up by the British, French, and Americans in earlier times. These rights of Soviet citizens differ, however, in two special respects.

In the first place, as we have already seen (p. 462), the emphasis is on social and economic rights, rather than on freedom from interference by government. The Constitution guaranteed Soviet citizens the right to work, the right ("for the overwhelming majority") to a seven-hour day, the right to free education, the right to equality of treatment regardless of sex or race, and the right to support in old age or during illness.

In the second place, the "rights" are statements of intention, not constitutional rights in the sense that they will be upheld by the courts. Many of the rights are the by-products of policies which the regime expects to follow. The law on the nationalization of the forests states that all citizens enjoy "rights" to their products, but in practice there are severe penalties for picking up wood for personal use. The "rights" enjoyed are the benefits which result from the national policy in administering the forests. Similarly, the cherished right to work is a by-product of full employment, which in turn is the result of the industrial program. Thus these rights are not enjoyed independently but arise as the result of state policy. There is no reason to underestimate the importance of these objectives, which, indeed, Western democracies are also striving to attain. Moreover, in some of the objectives, notably full employment, the Soviet Union has been conspicuously successful (though not more so than other industrial countries with defense or war programs). But public policy alone determines the continuance of those conditions from which the "rights" would normally derive.

There is a similar restriction in regard to political rights. The Constitution guarantees freedom of association, of the press, and of pub-

lic meetings. But these are rights for those who support the regime, not for those who oppose it; they are extended only in order "to strengthen socialist society." Even the rights affecting conditions of work, opportunities for training, and so forth, which the Constitution specifically guarantees to individuals, are treated with scant concern when public policy is at stake. The rights to the seven-hour day (Article 119) and to free education (Article 121), for example, were lost by simple decree in 1940. Nor was there any basis for redress. The situation was regularized by a 1947 amendment to the Constitution changing "free education including higher education" to "free education up to and including the seventh grade."

Changes may take place with equal quickness in the field of personal relations, which might not normally be thought to fall within the sphere of state planning. The Bolsheviks originally introduced great innovations in personal relations, particularly in the status of women (p. 551). For a time, for example, a declaration of intention by one party was sufficient to dissolve the marriage bond. In 1944, however, divorce ceased to be a matter of right and became dependent on a court ruling, in practice making divorce more difficult and more expensive than in many capitalist countries. Moreover, only children born of a registered marriage now have rights to inheritance. In 1947, marriage between Soviet citizens and aliens was forbidden. Thus the Soviet State, which initially introduced great freedom in personal relations, has replaced it by rigorous and detailed rules related to "the general policies of the Soviet government." Nowhere does one see more clearly that law is now looked on as an active agent of social development.

In the field of property the rights of the Soviet citizen appear at first glance to differ less in character than in scope from those held in Western countries. A Soviet citizen is allowed to possess, use, and dispose of his property as he sees fit, within the limits laid down in law. The possessions specified include income from work and savings, dwelling houses, "subsidiary household economy," furniture, and articles of "personal use and convenience." There is a specific prohibition against using any personal possession in such a way as to exploit the labor of

others. When necessary the state may make use of personal possessions, as is also true in the United States. But there are, clearly, major differences in the two countries regarding property rights, differences which arise not only from the narrow limits restricting the acquisition and use of personal possessions in the Soviet Union but also from the fundamental difference in their attitudes towards the activities of individuals. The wholesale expropriation of the property of the kulaks is only the most striking illustration of the fact that rights of property may be withdrawn whenever these rights cease to support or advance public policy as determined by the regime.

#### THE DUTIES OF SOVIET CITIZENS

In the same chapter of the Soviet Constitution in which rights are enumerated there is also a statement of the duties of the Soviet citizen. These include the duty to abide by the Constitution, to maintain labor discipline, to undertake military service, and other public obligations which must be performed if the socialist system is to work. This statement of duties marks another difference between Western countries and the Soviet Union. Labor discipline refers to a sector of human activity which in capitalist states is left to the largely automatic processes of private enterprise. In the Soviet Union the expansion of public interest to all aspects of life means a wide degree of regulation in matters which Western states have in general left to the free interplay of private individuals.

Still another difference from Western countries is that the Soviet Union emphasizes positive duties, e.g., to help one's neighbor cut his crops if rain is threatening, rather than non-interference in the affairs of others, e.g., trespass. This is a not surprising result of the fact that, whereas Western countries emphasize private rights, which are protected against other individuals and also against state officials, the Soviet Union stresses the public interest in all property and production, an interest which at all times is superior to that of an individual.

#### THE DIVISIONS OF LAW

Despite lack of clear-cut distinction between private and public spheres of activity and re-

sponsibility, the Soviet Union retains the traditional divisions of civil and criminal law, divisions which were developed in Western countries as the result of just such a distinction between private and public interests. Thus their retention by the Soviets is somewhat confusing to the outside observer. Soviet courts tend to use these categories of law without much concern for possible inconsistencies, however, and to maintain the overriding importance of public interest, regardless of whether a case is ranked as civil or criminal.

Cases that concern personal relations fall naturally into the sphere of civil law, as do property cases. More surprisingly, civil law covers the operations of state enterprises. In cases involving contracts between different enterprises, the overriding importance of general state purposes emerges clearly, for all transactions between state enterprises are considered to be conditional upon their compatibility with the economic plans in effect at a given time. If the Plan is changed, the interpretation of existing contracts will also change.

Another anomaly is that the enforcement of public duties may fall under either civil or criminal law. Suits under the Statutes of Labor, e.g., the enforcement of labor discipline through court action, come under civil law; but most other offenses against public orders are prosecuted as criminal acts.

#### VERDICTS DETERMINED BY PUBLIC INTEREST

A strongly marked characteristic of Soviet criminal law is the principle that an act affecting harmfully the interest of the state is considered to be much more serious than one which infringes the interests of a private citizen. This point of view explains both the severity of the penalties in cases involving breaches of public rules and the leniency sometimes evidenced in cases which would be considered much more serious in the United States. An American reporter visiting a People's Court in Moscow during the Moscow Conference in March 1947 was shocked to hear an adolescent boy sentenced to pay a quarter of his wages for nine months because he had been late to work for the third time. On the other hand, another American reporter recounts a case in which a woman who had murdered her husband was let off on sus-

pended sentence because of a previously blameless life and the belief that she was unlikely to commit a violent act again.

The fact that crimes are judged in terms of their danger to the regime and its immediate purposes rather than by a fixed standard also explains the wide variations in penalties for the same offense. Even though Soviet courts no longer make extensive use of the rule of analogy which gave judges free rein to stamp any act a crime, there is still considerable latitude as to the penalty imposed.

#### ATTITUDE TOWARD PERSONAL GUILT

Recently Soviet courts have emphasized the intention of the offender. In early years the tendency was to assume that crime was the result of environment. The notion of personal guilt almost disappeared from writings on penology. This led in turn to a healthy move towards re-education of criminals by placing them in a satisfactory environment (e.g., wayward children were placed on farms and trained to develop skills and put their energies to good purpose). More recently the notion of personal guilt has been revived, since it is difficult otherwise to explain the existence of crime in a socialist society. The intention of the offender, as well as the effect of his act on society at large, is now taken into account in determining penalties. The aim is not to "do justice" in an abstract sense but to inculcate "discipline and self-discipline," in the interest of his social productivity.

#### To Sum Up

The highly realistic Soviet leaders have given law a central role in the socialist state as the regulator of human actions and of organizations in all fields. Because it has taken all spheres of life under its control, the socialist state may be said to depend even more heavily than the capitalist state on positive law. Moreover, the Soviet state depends much less on custom and tradition than do Western states, though in the writings of Vyshinsky there are indications that Soviet leaders would like to be able to depend more on established, customary ways of action than on legally enforced rules. They seem to be unaware that their own view that, whenever

the interests of the regime are concerned, law is an instrument of policy, works against the long-time stability which is necessary if conduct is to be a response to custom rather than to rules.

Soviet law still retains a "revolutionary" character. Many of the early sections of the Civil Code, drawn up in 1922, are in force today. But there has been no convincing evidence that they or the code as a whole might not be changed abruptly if the regime should feel the need to do so. Even constitutional laws are changed frequently, and sometimes by organs which do not officially have this power (p. 464). In fact, any laws which may limit the operation of the purposes of the regime are subject to change without notice. "Soviet law" wrote Vyshinsky in 1936, "is precisely the expression of what is expedient for the construction of socialism and the fight for socialism." As long as this system continues, laws in the Soviet Union will be no more than the temporary reflection of the will of the governing group.

## II. THE JUDICIARY AND THE COURTS

The administration of law, like the work of local organs of state power, combines widespread popular participation at the lower levels with central control. People in Soviet towns and villages share in the decision of cases in the courts to a degree which parallels, if it does not exceed, the participation of Americans and Englishmen in judicial action through the jury system. At the same time, the Soviet court system has far less independence from party and political control than the court systems in Western countries.

### *Judges and Lay Assessors*

The Russians use one judge and two lay assessors for every case having original consideration. The judges and assessors of lower courts are elected by the citizens of their districts by "universal, direct, equal, and secret suffrage"; those of the higher courts are elected by the appropriate soviet, acting, of course, in accordance with the will of the particular Party unit. The chief difference between judges and lay assessors

is not in training but in duration of service, since judges serve throughout the full term for which they are elected (three years for the local courts, five years for superior courts), while lay assessors are selected for an equal length of time but, in this respect more like American jurymen, do not serve more than ten days a year, unless a particular case lasts longer than that time.

### POPULAR PARTICIPATION

This extensive use of lay assessors is evidence of the Russian desire to draw a large number of "average" people into the administration of law, especially since assessors and judges are of equal importance in deciding matters both of law and of fact. In this respect, the assessors differ from juries in Western countries, since juries can only decide matters of fact, not of law. In other respects, e.g., the temporary character of their work, there are similarities which lead some writers to call them juror-judges. (Unlike the United States and Great Britain, the Soviet Union does not use juries in its court system.)

However, the great majority of Soviet judges, as well as the assessors, are "amateurs" who have had relatively little, if any, professional training. Late in the forties about 64 per cent of all Soviet judges appear to have been without any formal legal training. Thus Soviet judges in local courts bear more resemblance to the English and particularly the French justices of the peace than to the regular judiciary in those countries. More important than legal training is the degree to which a Soviet judge in a local court is able to interpret the sentiment of his community. Particularly at these lower levels, legal decisions, especially in cases involving personal relations, are looked on as "simple justice" expressing the reaction of the average citizen to particular circumstances.

The use of nonspecialized personnel in the administration of law has certain advantages, at least in the lower courts. Justice is kept close to the people and reflects a simple and direct approach to problems of local concern. The use of three persons on the bench, which is similar to the practice in France, means that no single person carries the full responsibility of making a judgment. Moreover, since local courts do not adhere to the rule of precedent (though

they must obey the rules issued by higher courts), there is less reason than in England for the judges to have systematic legal training. In fact, many of the judges rely largely on personal experience as lay assessors. The avowed goal of making law comprehensible to all laymen, and the fact that court procedures serve this purpose, contrasts sharply with the legal technicalities that bewilder the average citizen in Western countries.

#### PARTY AND POLITICAL INFLUENCE

The Soviet judiciary differs far less from the judiciary in Western countries in professional training than in the degree to which Soviet judges are dependent upon party and political organs. As in other fields, election to judicial office in the Soviet Union depends on political reliability. All judges of higher courts are Party members, and by 1935 the percentage in lower courts had reached 95.5. In 1949 it was announced that 40 per cent of all candidates for election in the People's Courts were not Party members, but the final results, not surprisingly, follow the pattern of elections for the soviets (see p. 487).

Moreover, since the earliest days of the revolution the Western doctrine of separation of powers between the judicial and the law-making branches of government has been rejected; the judiciary has been dependent upon the organs responsible for the enactment and execution of laws. This dependence was made less direct, however, in the 1930's, in an effort to free the courts from the whims of individual public officials. For example, different means were used to select judges for lower and higher courts, direct election of the People's Judges being introduced in 1936, while higher judges are still selected by the soviets in their areas. Moreover, the 1936 Constitution declares, "Judges are independent and subject only to the law" (Appendix B, p. 777, Art. 112). But the judiciary remains in essence a dependent function of government.

There exists no real safeguard against removing judges if their decisions are unsatisfactory to political organs. Up to 1938 all officers were subject to dismissal or recall by the electors or by the organs which appointed them. In addition, they might be recalled on the initiative

of officers of a superior court or on that of the Public Prosecutor, a political official. Since the 1938 Statute on the Constitution of the Courts, there have been official restrictions on removal of judges: removal should be only by recall or as a result of criminal proceedings by the public prosecutor of the republic (who is part of the staff of the Public Prosecutor of the U.S.S.R.), with the approval of the Supreme Soviet of that republic. But even these provisions leave much room for political pressure.

If there is any independence within the Soviet court system, it is clearly of a very limited kind. In the courts, as in the laws, the interests of the regime are paramount. Freedom, which Western democratic countries believe involves independence of both judiciary and laws from political interference in individual cases, is thought in the Soviet Union to be a by-product of the achievement of certain social and economic standards. The administration of laws by the courts is expected, therefore, to contribute primarily to the maintenance and advancement of these standards.

#### *The Legal Profession*

The members of the legal profession in the Soviet Union are in a somewhat anomalous position. On the one hand, the 1939 Statute on Advocates (as lawyers are technically known) seems to provide for a free, self-governing legal profession, since admission to the bar of the graduates of law schools or persons with experience in judicial work is controlled by a committee elected by practicing members of the profession. At the same time, however, the federal or republic Ministers of Justice may overrule the decisions of this committee and forbid admissions, while they also have the power to license persons to practice law.

Most of the work of a lawyer in the Soviet Union is done through a legal aid office in which the cases are distributed among the members of the office by the director, an advocate who is appointed by the committee of the bar. The Soviet government has always mistrusted the fixing of lawyers' fees by agreement between the lawyer and client, and originally put lawyers on a salary basis (the fees to go

to the State Treasury). The system proved unworkable, however, because fees were tendered personally in any case, and the Minister of Justice now issues a fixed schedule of fees which is used by the director of the legal aid office to determine how much an advocate receives for a case he has been assigned. The practice of law outside the legal aid office is neither forbidden nor expressly approved and a certain amount of it takes place.

### *The Court System*

Unlike the United States with its two sets of courts, federal and state, the Soviet Union has a single court system composed of the state hierarchies of courts and, in the federal sphere, a small number of specialized courts together with the Supreme Court of the Union.<sup>1</sup> With the adoption of the 1936 Constitution, the Supreme Court assumed by far the most prominent position in the court system, being the only court empowered to issue rules having general binding effect. Since that time, the Supreme Court, the Ministry of Justice, and perhaps above all the Public Prosecutor of the U.S.S.R. have centralized and directed the whole court system of the Soviet Union.

The courts in the Soviet Union, as the result of progressive systematization, now correspond to the general hierarchical pattern of Soviet organs, with the higher bodies supervising and directing the lower. They are also supposed to follow the same general principles of procedure. These principles, laid down in the Constitution and in the law on the Organization of the Law Courts of August 1938, include publicity of court proceedings and the right to legal defense, except in cases specified in law; the use of local languages in court; the independence of the judges; and the equality of all before the law. The principles are clearly intended to be norms, and in practice are frequently not realized; but they indicate an attempt to secure independence and a general equality of treatment, insofar as the former can exist within a highly integrated and controlled governmental structure.

<sup>1</sup> Canada has a somewhat similar arrangement of courts. Cf. also the German court system, below.

### THE LOCAL COURTS

There are two kinds of local courts—the Comradely Courts and the People's Courts—which between them handle local disputes of a relatively simple character.

The *Comradely Courts* are not, in fact, part of the regular judicial hierarchy, and there are few formal rules governing their composition and operations. Comradely Courts can be organized in large dwelling houses, or in groups of houses, or in industrial undertakings or other businesses to deal with troubles arising within the particular group. The "judges" for these courts are elected by general meetings of all those concerned. The Comradely Courts are empowered to give reprimands and public censure and also to impose fines amounting to 50 rubles (about \$9.00, though the purchasing power would be much higher). This practice may be a healthy means of developing community standards of justice and responsibility, so long as it is not used in the interests of a particular group.

The local courts in the regular judicial hierarchy are known as the *People's Courts*. They handle only cases of first instance and are, therefore, always composed of one judge and two lay assessors. Under War Communism the "revolutionary consciousness" of the judges in these courts helped to shape the rules governing personal relations which were embodied in the Civil Code of 1922. Subsequently, the laws administered by the People's Courts have been formulated for the most part by higher organs, and in all matters affecting public policy direction comes from above. But the People's Courts still have a considerable measure of discretion in those matters of personal relations which do not affect the policy of the regime and have remained in close contact with the people whom they serve.

To the People's Courts come a wide range of cases, from theft to murder, from abuse of power in official positions to illegal raising of prices, from nonpayment of taxes to illegal occupancy of a room. Procedure is informal (a characteristic feature of Soviet courts from the beginning), and witnesses interrupt each other and shout lustily when passions are running high. Decisions are argued over like those of



football games. There seems little question, despite the degree of central control, that the community takes a lively interest in cases and feels keen interest in the verdicts awarded.

An American journalist's account of his visit in 1947 to the People's Court of a district in Moscow illustrates the public interest, the informality of proceedings, the speed with which decisions were handed down, and the severity of the punishments. One case concerned a man who had been convicted of stealing sixty-two copies of a newspaper, which were worth about twelve rubles (two dollars). The bench was composed of a man and two women. The spectators were crowded six deep in front of them, and the sentence, a year at hard labor, appeared to stun them. The offender was reported to have been more nonchalant.

The second case concerned conflicting claims to a room, the most common cause of civil litigation in a country where continual scarcity of living space was intensified by the war. In this case neither litigant could provide satisfactory evidence of his right to the room. Witnesses excitedly shouted their views and argued with each other. The presiding judge, a woman, kept restoring order. After two hours of bringing forward testimony from records and witnesses, the judges and lay assessors retired and deliberated nearly an hour. Thereafter they emerged to give their verdict: the former occupant had no claim; the right of the present occupant should be investigated. The general reaction was that the decision was fair but not satisfactory to anyone.

These cases also illustrate the view that justice should be simple and direct. Though lawyers may appear in local courts, their role in a trial is kept to a minimum. Efforts are made to put the issues in simple enough terms for everyone to understand. This is one of the most attractive features of the Soviet court system, for it maintains a healthy and close relationship between the community and its justice.

#### THE SUPERIOR COURTS IN THE UNION REPUBLICS

There is a variety of superior courts—regional, territorial, and Supreme—in the divisions of the Soviet Union whose number and exact character differ according to the area within which they function. In general, each region and ter-

ritory (p. 528) has a court of its own, while the autonomous and Union Republics have Supreme Courts. The members of each superior court are selected for five years by the soviet of their particular area.

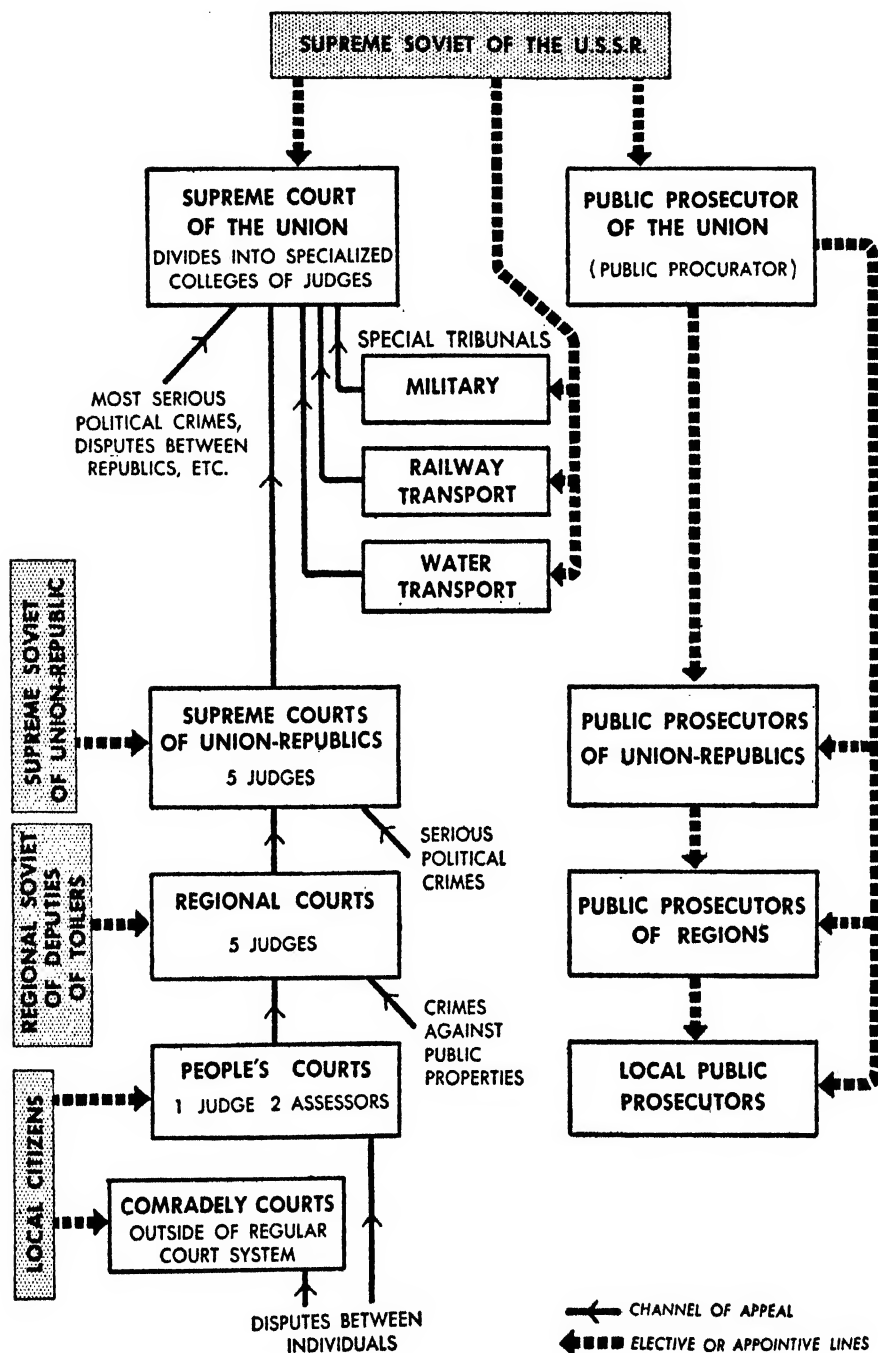
All superior courts have both original jurisdiction and secondary or review functions. The regional, and territorial courts have primary jurisdiction in serious cases such as theft of public property, civil actions involving public institutions, and counterrevolutionary activity. The original jurisdiction of the Supreme Courts is not defined, but it may be assumed that they act in particularly serious cases. In acting as courts of first instance, the benches of all these courts are composed of a presiding judge and two lay assessors, following the pattern of the People's Court.

However, much of the work of superior courts is of a review or supervisory nature. When acting in this capacity, the bench is composed of three judges. Superior courts are generally said to have *cassational*, rather than appellate jurisdiction; i.e., in accordance with Continental practice, they review cases on the basis of the record of the first court, not by examining evidence and witnesses themselves. Cases may be referred to the next higher court by the parties concerned, by the Public Prosecutor, or by the presiding judge of the Supreme Court of the particular Republic or of the U.S.S.R. Thus cassation includes not only the possibility of appeal but also of review and correction by higher authorities on their own initiative. Though normally the next court in the hierarchy undertakes this review, the Supreme Court of the U.S.S.R. maintains constant supervision, both by sending cases to higher courts for review and by issuing rules of general application. It should be noted that verdicts can be overruled even after they have been put into effect.

#### THE COURTS OF THE UNION

Though there is for the whole Union only one common court, the Supreme Court of the U.S.S.R., there are special tribunals in three fields: military, railway transport, and water transport. The first deals with military offenses, and the other two with breaches of labor discipline or other acts disruptive to transportation

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in the Union. The separation of these offenses from others of a similar character, e.g., labor discipline in other fields, appears to arise out of the special importance of transportation for internal and external security. (Offenses in these fields were tried by court martial during the war.) These tribunals have a relation to other courts only through the fact that their decisions are subject to review by the Supreme Court of the U.S.S.R.

The *Supreme Court of the Union* is composed of a number of specialized colleges of judges, each of which deals with particular types of questions. Usually twice as many judges as assessors are selected for the Supreme Court by the Supreme Soviet for the regular five-year term; evidence that, as is to be expected, the preponderance of the work of the Supreme Court is in the field of cassation.

The Supreme Court of the Soviet Union no longer has the responsibility of advising the Supreme Soviet concerning the unconstitutionality of its own measures or those of constituent republics. All responsibility regarding constitutionality is now assumed by the Presidium. Since administration in the Soviet Union is so highly centralized, it is hardly surprising that there have never been any cases concerning the constitutionality of measures.

The chief function of the Supreme Court of the Union is, therefore, to supervise and unify the court system. Its growing importance is convincing evidence of steady centralization. As already noted, it is now the one court empowered to issue rules of general effect. It constantly watches over the administration of law by courts in the republics, reviews their reasoning and decisions through processes of cassation, and overrules them when it sees fit. In the words of Article 104 of the Constitution, it maintains "watch over the judicial action of all the organs of justice of the U.S.S.R. and of the Union Republics." By active use of its power, it has achieved the dominant place in an increasingly unified judicial system.

### **Governmental Arbitration**

Outside the regular court system, and closely linked to the administration, is a special system of courts known as the State Board of

Arbitration which has the significant task of settling disputes over property or contracts which arise between the economic organs of different ministries. There is also a Departmental Board of Arbitration in each ministry to settle its own internal disputes though, with the ministry's permission, such disputes may also be handled by the State Board of Arbitration.

The State Board of Arbitration consists of a hierarchy of arbitrators extending from the Arbitrator-in-Chief, who is attached to the federal Council of Ministers, to arbitrators attached to regional, provincial, or city executive committees. Decisions are rendered by a single arbitrator but may be reviewed by the chief arbitrator, and also reversed or modified by the particular administrative body which appoints the arbitrator. Periodic conferences and a bi-weekly journal seek to maintain uniform practices throughout the arbitral system.

Governmental arbitration is, in fact, one of the most important instruments for maintaining satisfactory relations between different parts of the economy. The general problem faced in making arbitral decisions is a crucial one: how to retain adherence to the plan and at the same time preserve some freedom of initiative for individual enterprises. Arbitrators must keep in mind the requirements of the plan but at the same time are supposed to see that contracts are respected, correct procedures adhered to, and the legal rights and interests of the parties upheld. Thus in place of the earlier view that the immediate economic needs of the plan must override all other considerations, it is now said that arbitration must insist on full business accountability to protect property and contract rights since these contribute to the successful operation of the plan. In general, this more recent emphasis has introduced an element of stability into the operations of the plan which it lacked in the initial stages. Nonetheless, the vast number and variety of the cases appealed to governmental arbitration in the Soviet Union, far more than go to official channels for settlement in the United States or Great Britain, suggest that economic relations are still more complex when there is full state ownership of industry than under capitalism or a mixed economy.

### ***The Public Prosecutor of the Union***

Even more important than the Supreme Court in ensuring uniformity of legal rules throughout the Union is the Public Prosecutor of the Union whose office is not unlike that of the Procuracy of Tsarist days. The Public Prosecutor is responsible for maintaining close supervision of the court system, particularly in the sphere of criminal law. Each of the republics, and its districts as well, has a public prosecutor; but since 1936 all of these officers have been under the jurisdiction of the Public Prosecutor of the Union, who has the power to appoint them for five-year periods, or at least to ratify their appointments by the government of their republics. Thus, despite the appearance of a federal division in this field, there is, in fact, a completely unified and centralized organization.

The functions of the public prosecutors in the Soviet Union stretch far beyond those of the district attorney in the United States or the prosecutor in France (p. 382). A public prosecutor in the Soviet Union is concerned not only with the interests of the prosecution (whether on behalf of the state or of a private individual, as in a case of murder) but also with the organization of the courts and the rules of law in current use and their "strict execution" by government officials, institutions, and citizens (Article 113). The Supreme Court is expected to determine the final form of legal rules, but the Public Prosecutor of the Union is the agent who brings cases of overleniency or overseverity to the attention of the Supreme Court. He also questions the actions of officials, institutes proceedings, and generally watches over administrative regulations to ensure that they are not contrary to law. In addition, he is in charge of cases involving serious counterrevolutionary activity. In practice, the Public Prosecutor tends to be all-pervasive and virtually omnipotent (see chart above).

The office of Public Prosecutor, held in the late 1930's by Vyshinsky, is thus one of the most important in the Soviet Union. In his own words, "the Soviet prosecuting officer is the watchman of socialist legality, the leader of the policy of the Communist Party and of Soviet authority, the champion of socialism."<sup>2</sup>

<sup>2</sup> Andrei Y. Vyshinsky, *The Law of the Soviet State*, p. 537.

Appointments are for seven years and are officially made by the Supreme Soviet. As would be expected, the office is always held by a high ranking member of the Communist Party, since it is such a strategic point from which to exercise control.

### ***Revolutionary Justice***

"Revolutionary justice," that is, the imposition of punishment in a nonjudicial procedure, still plays an important role in Soviet life. "The Courts shall not do away with terrorism," stated Lenin; "to promise such a thing means either to cheat ourselves or other people."

The tribunals which now administer "revolutionary justice" are the special boards of the Ministry of the Interior (MVD), the secret police. Exile to a specific locality, banishment from others, or up to five years in a labor camp (p. 519) are supposed to be "normal" penalties. Any of these may be indefinitely prolonged. From all reports, physical punishment and death from hardship are far from infrequent.

Theoretically, "revolutionary justice" is supposed to deal with "counterrevolutionary activity." In 1938, in an effort to stabilize law, the Supreme Court of the Union declared that no one should be convicted of counterrevolutionary activity unless the intention to overthrow the Soviet regime was proved. But it is apparent that the secret police deal with a great many offenses, like criticism, failure to meet quotas, or outward expressions of religious or nationality sentiment, which few people outside the Soviet Union could consider to be dangerous to the security of the regime. Thus it is apparent that in this sense the Soviet Union has not yet passed out of the period of revolution, a fact which will continue to affect both its law and the court system.

### ***Evaluation of the Soviet Legal System***

It is not inappropriate to end a description of the court system of the Soviet Union with a consideration of revolutionary justice and of the position of the Public Prosecutor. Both are highly characteristic of the Soviet judicial system and both stand in sharp contrast to Western practices and purposes. Revolutionary justice

directly affects millions of people, and indirectly the whole population. And even in regular processes of law, the Public Prosecutor at all time represents a dominant force. The fact that he, a political figure, checks the judiciary, rather than having the judiciary check the acts of political officers of the state, indicates the gulf between the operations of law and the courts in the Soviet Union and in Western democratic countries.

It would not be correct to assume that law and the ordinary courts do not have an important function in the socialist society. They provide the main means through which conduct is regulated in every field. As already pointed out, this involves a much wider range of activities than in the United States or Great Britain. Law, enforced by coercive action, is a spur to the laborer as well as a deterrent to the thief. In fact, the experience of the Soviet Union suggests that the wider the range of socialization, the greater the need to use law to regulate conduct, and hence the greater the burden placed upon the courts in this regard.

The experience of the Soviet Union also indicates, however, that it is not the responsibilities placed on the courts by national control of the economy but the attitude of the governing group which determines the characteristic features of the courts. The Soviet government does not abide by the conception, which forms the essence of the rule of law in democratic states, that the state machinery in general, and the judiciary in particular, are bound at all times to respect and uphold the law. Recent reports indicate that the Public Prosecutor and the courts do a good deal to check the abuses of administrators. Minor officials are prosecuted for negligence or "over-zealous action"; workers appeal penalties and are sometimes upheld. But

if an issue of political loyalty is raised, it overrides every other consideration.

Further, the courts in the Soviet Union still accept the notion that the rules of law are relative to the circumstances and aims of the socialist state at a given time. Individual judges, for example, have a wide range of discretion in imposing penalties. Minor offenses, like being late for work, may lead to very severe sentences which are intended to be "examples" to others. Under such circumstances law is not a fixed and certain norm, but an instrument of social pressure.

What is most disturbing to the Western observer is this imprecision of standards and the extent to which the individual may find himself at the mercy of so vague a principle as "the sense of justice of the toiling classes," which can be interpreted in any fashion dictated by the "revolutionary consciousness" of the judges or the current policy of the Party. The fact that, without any change in the law, actions which are praiseworthy one year may be regarded as antisocial or counterrevolutionary the next and, as such, may carry heavy penalties seems intolerable to anyone who accepts the traditional Western principles of justice.

Perhaps the greatest advantage of the Soviet legal system is less one of law than of political consequence. However far it may depart from Western standards of justice, the Soviet system does encourage people to take an active interest in legal processes, at least in the lower courts, and to assume responsibility for distinguishing between justice and injustice in particular cases. The opportunities for this kind of action and thought are sufficiently limited in the U.S.S.R. to make them welcome wherever they may be found.

## CHAPTER 9

# The U.S.S.R.: A Workers' Society?

It is characteristic of the Soviet planned economy that the Five-Year Plans provide goals for education and social security which are as precise as those for heavy industry and consumers' goods. The two types of goals, in fact, are closely interrelated. Economic planning presupposes social aims, such as the improvement of the living conditions of the working man and the material prosperity of the whole society. Even more important is the fact that in the present stage of Soviet development, its economic and industrial objectives are dependent upon the training and incentives provided for the Russian people. The keys to understanding the educational and social programs in the Soviet Union must be sought, therefore, not only in the broad objectives of the socialist state but also in the economic and political needs of its particular stage of development.

### I. EDUCATION

There are few achievements in which the Soviet government takes greater pride than in the advance in education. Under the Tsarist regime it is estimated that 78 per cent of the population was illiterate (some authorities believe this figure to be exaggerated<sup>1</sup>); by 1941 the percentage had been cut almost to five.

There have been two major objectives of So-

<sup>1</sup> The educational experience and system of schools which the Bolsheviks inherited was not inconsiderable. Peter the Great established the first Russian university; Catherine the Great, a system of free elementary and secondary schools open also to women. But before the Soviet period, education touched only a minute proportion of the peasants. For the relatively small numbers who attended, Tsarist universities were centers of liberalism, and during periods of repression their students worked for radical reform.

viet education: political indoctrination, and mass training for industrial work.

Lenin pointed out, "You cannot build a communist state with an illiterate people." The liquidation of the bourgeoisie and the rise of the proletariat were dependent on transmitting the simple conceptions of political ideology to the mass of the people. To accelerate this process there was a wide use of vernacular languages and of striking and easily mastered posters, headlines, pamphlets, and wall-newspapers. Once a person could master a headline, he was no longer illiterate; the first step in the political-educational aim had been taken, and grounding in political grammar could follow.

The Russian people's vast eagerness for knowledge, so apparent even before the revolution, led citizens of all ages to respond to the opportunities for education with enthusiasm and persistence. Anyone who could read was set to teach those who could not. Simplified textbooks expounded "the faith." The impact of the new (if still very elementary) learning was revolutionary, particularly in the undeveloped areas of the Union's Middle East and East.

Mass manual training had no less spectacular effects than mass mental training. If anything, it was more important both socially and economically. It was the great leveler among urban and rural peoples and a major factor in putting women on a real plane of equality with men. The great and immediate need of the industrialization program was rank-and-file workers. Short-term training for mass production jobs and for improved workmanship had developed in special industries before the First Five-Year Plan. But the new goals for industry required immensely accelerated training. Under the direction of foreign specialists and of engineers

trained under the old regime, the new workers were taught on the job and in factory schools. Workers' universities enabled people of little or no previous education to combine their technical training with some general education. An abundance of educational opportunities coupled with the attraction of the new industry resulted in a remarkable social as well as physical mobility.

Yet the pressures of the industrial program soon introduced a new rigidity and stratification. The demand for skilled laborers, technicians, and managers intensified the concentration on specialized types of training and thus replaced the emphasis on full and open opportunities for further education. As specialization developed, schools became more highly selective in their choice of students; it became much more difficult for workers to acquire either the general or the special education which would enable them to prepare themselves for higher positions. During the later thirties it was comparatively rare for managers to be drawn from the ranks of the workers. It also became much less common for workers' children to acquire the kind of training which would equip them for such positions.

### **The School System**

The present pattern of education in the Soviet Union is supposed to provide a common basic training for seven years, from age seven until age fourteen. This is general only in urban centers, however, and in remote rural areas, schooling rarely extends beyond the fourth year. British basic education, in comparison, provides for ten years of training, from five to fifteen years of age. Another contrast with British education, where there is considerable diversity in the offerings and equipment of different schools, lies in the fact that throughout the Soviet Union there is an exact similarity in curriculum and in the amount of money spent per pupil insofar as facilities are available. Children moving from one part of the country to another thus find no difficulty in fitting into a new school. Underlying this uniformity is the fact that Soviet education is controlled by the Party as well as by the official administration. Some of the most far-reaching decisions affecting the general character of education in

the Soviet Union have come from the Central Committee of the Party.

For some time, the Soviet Union prided itself on having coeducation at every level. Since 1943, however, there has been an increasing number of separate schools for those from eleven to seventeen years of age. In addition to the basic curriculum, girls study homemaking and child care; boys receive physical training in preparation for military service. There are also military high schools for boys, the "Suvorov Military Schools" and others, designed to train commissioned career officers for the services.

In England it was long true that the school to which children went after eleven determined whether or not they could continue to the university. Under the British Education Act of 1944 the period during which the choice can be made has been lengthened. In the Soviet Union the decision normally is made at fourteen. At that time, when the seven years of compulsory school have been completed, there are four possibilities: to go into industry; to enter a factory school, which trains the less skilled workers; to go to a *technicum*, a school for training "middle-grade specialists" for industry, agriculture, teaching, physical education, arts, and the like; or to finish secondary school, the common road to the university, which, in turn, is the main way to prepare for a professional or technical career.

While the British system is becoming more flexible and providing more opportunities for higher education, the Russian system has been marked increasingly by stratification which limits educational opportunities in the higher levels to the children of skilled workers and the intelligentsia. Since 1940, for example, the factory schools have become the training ground for the State Labor Reserves into which about a million young people between the ages of fourteen and seventeen are drafted every year (p. 517). These young people have little or no chance at that time or later to acquire the training, or to display the qualities of leadership, which are necessary for entry into a specialized training school.

Thus opportunities for advancement in industry or administration are limited to those who enter the technicums or continue in the higher grades of secondary school, in which



case service in the Labor Reserves is not required. But higher education is now limited to those with "excellent" standing. During the war, fees were instituted for the last years of secondary school, as well as for specialized professional schools and the universities. As a result, and despite an increasing number of scholarships, serious barriers hamper the entry of the children of unskilled workers into professional and technical institutions. Under these circumstances education in the Soviet Union remains equalitarian only in the sense of being nondiscriminatory on ground of sex or race. Temporarily, at least, a new hierarchy reflecting different functions in the planned society, different grades of skill, and therefore different scales of wages marks both education and the social order.

### *Evaluation of Soviet Education*

Whether or not this stratification is permanent, education in the Soviet Union, at least beyond the initial compulsory period, is essentially different in aim from liberal education in the United States and Great Britain. Liberal education aims to develop individuals in terms of their own abilities without conscious reference to a preconceived social pattern. Soviet training avowedly seeks to develop the skills necessary for the planned society at a given stage of development. Increasingly, and disturbingly, Soviet education also stresses the skills useful for military service.

Moreover, where the avowed aim of liberal education is to teach students to think for themselves, the Soviet educational system aims at the most careful and unquestioning indoctrination in "Marxism-Leninism-Stalinism," with which is incorporated a fulsome adulation of Soviet leaders. For in the Soviet Union, to a far greater extent even than in France, the schools are regarded as an essential weapon in the battle for the mind of future generations.

## II. THE POSITION OF WOMEN

One of the most publicized features of Soviet society is the degree to which men and women perform similar tasks. Striking evidence of this

was given by the situation in the Soviet Union in 1941: there were 170,000 skilled women engineers and technicians in industry, over half a million women railroad workers, nearly 200,000 tractor drivers and combine operators, and 73,000 women doctors. Even before women were drafted for national service following the Nazi attack, there were more than 30 million of them working in the Soviet Union, 19 million on the farms and 11 million in industry. Moreover, there are many famous women Stakhanov workers, and many women are elected or selected for public offices, from trade union committees to the Supreme Soviet. At the same time, no women hold key positions in the Party or administration.

### *Equality for Women*

The first fundamental changes in the status of women were brought about by the Revolution of 1917. Before that time a woman had no separate rights and was subject to the will of her husband. The revolution established the equality of men and women and abolished the special privileges of husbands. Concurrently, women were placed under the same obligations as men to provide for the support of the family. Both shared equally in the support of children, and each was responsible for looking after the other in case of incapacity. "A spouse incapable of work and lacking a subsistence minimum is entitled to support by the other spouse if the latter is in a position to give it," reads the law of 1918. Thus the removal of disabilities because of sex was coupled with provisions which made self-supporting work a necessity even for married women, since private property had been abolished and individual wages were low.

In 1919 Lenin declared, ". . . to draw women into socially productive work, to pull her out of domestic slavery, to liberate her from submission—degrading and stultifying—to the sterile and exclusive surroundings of kitchen and nursery—that is the main goal. This means a long struggle that requires fundamental remodeling of social techniques, and morals as well. But this struggle will end in a complete victory of Communism." Thus the new position for women was identified with the ultimate purposes of the regime.

### *Women in Industry*

But up to the middle of the First Five-Year Plan there was comparatively little change in the attitude of discrimination against women in industry. In 1930 a smaller percentage of women were employed than during World War I or the Civil War. There were only about three million women wage earners in industry, agriculture, education, and public institutions. In the hope of increasing employment protective legislation for women had been reduced, but without results.

The change finally came with the pronounced labor shortage which developed after 1930. *Pravda* declared in December 1930, "The labor reserves are exhausted. . . . But there are tremendous reserves of female labor. Suffice it to say that in our cities alone about six million housewives are wasting their energies in the kitchen, in laundering and the like." The emergency rather than any theoretical conceptions was responsible for the use of women's labor and the consequent necessity of developing measures of communal feeding, day nurseries, and so forth, which led another periodical to state, "The last and most backward sphere of individual economy, the household, must be collectivized."

The demand for women in the factories met a more willing response from the women because of their need to supplement their husbands' inadequate wages. To some extent, the work was fitted to their special capacities; in certain positions, such as locksmiths and fitters, women were given preference over men, and a certain proportion of places was reserved for them in the technical and vocation schools. But women also had to join men in heavier occupations. In 1939 women were widely employed in underground coal mining and on nightwork.

By November 1939 women comprised 43.4 per cent of the manual workers of industry, as compared with 28.8 per cent in the much less developed industry of 1929. The number of women wage earners had risen to well over nine million by 1937, and the Third Five-Year Plan regarded them as its chief source of labor supply. Unlike any other country among the United Nations, the Soviet Union trained its women in peacetime to replace men in heavy

production work so as to free the latter for the army, a factor of great importance in the resistance to the Nazi invasion.

### *The New Stress on the Family*

The Soviet Union has been more consistent in its policy toward women than was Nazi Germany, which first insisted that women's work was to look after children and cooking, and then brought large numbers into its war industry. Yet there have been significant, lasting changes in the Russian attitude toward women. Universal coeducation was replaced in 1943 by separate education for boys and girls at certain levels, a measure which was justified by pointing to differences in physical development and future work. However, the separate education of men and women, together with differences in the curriculum, may deprive women of their equality of access to certain professions.

Moreover, there has been a change in family relations. As an essential part of the liberty and equality which the Bolshevik Revolution brought to women, there was to be freedom from family ties which proved irksome. Divorce was made extremely easy—either partner to a marriage could obtain a divorce simply upon application and without the consent of the other partner. In addition, the state itself provided abortion clinics for women who did not wish children.

By the middle 1930's, however, the official attitude had changed. The government undertook an active campaign to raise the birth rate, and every effort was made to strengthen family ties. Oddly enough in a workers' society, the device chosen to restrict divorce was a financial one: the charging of a progressively higher fee for each new divorce, so that only people with a high income could afford the luxury. Finding this insufficient, divorce was in 1944 made conditional to receiving court approval, and is now more difficult to secure in the Soviet Union than in many capitalist countries. In addition, in 1936, in spite of great popular opposition, abortion was declared illegal.

Further indication of the desire to strengthen the family unit is given by the insistence in a decree of July 8, 1944, that the "rights and obligations of husband and wife" accrue only from

"legally registered marriages." The same decree provided that children's allowances be given the mother on the birth of the third child (for unmarried mothers the first) and each subsequent child instead of on the birth of the seventh and subsequent children, as had been the previous practice. (In Great Britain such allowances are granted for the second and subsequent children.) Reduced fees for nursery schools and lower income tax rates are also encouragements to larger families. Moreover, as was true in Fascist Italy and Nazi Germany, special awards and honors are now given to mothers of many children; the woman who produces enough children may become a "Hero Mother of the Soviet Union," or receive the order of "Motherhood Glory."

More attention is clearly being given in the Soviet Union to children and the family, yet in 1938, when a large number of housewives were being drawn into industry, economic pressures led to a reduction in the period of maternity leave (which had been the particular pride of Soviet labor legislation) from eight weeks before and eight weeks after the birth of the child to five and four weeks respectively. By 1942, women provided 52 per cent of the total of all workers. In 1946 rations for housewives, regarded as nonworking adults, were further reduced. Thus the problem of combining their two roles is, to a large extent, left to the women themselves.

### III. SOCIAL SERVICES

Although the Tsarist regime, even before the advent of the Soviet government, had provided for factory inspection and for sickness and accident grants for industrial workers, it is the proud boast of the Soviets that they have finally introduced a complete and unified system of social services (except for unemployment aid, which is declared to be unnecessary) covering all wage earners, together with a parallel system of mutual aid for all those (including collective farm workers) not covered by the ordinary plan.

The number of people covered by social services in the Soviet Union has varied, however, with the extent of industrialization and with political policy. Up to 1930 the social services were

received by wage earners only—about ten million persons, or one-seventh of the working population; the other six-sevenths were farmers, or otherwise self-employed. Benefits were also withheld from people disenfranchised under the Constitution because of social origin (e.g., the kulaks after collectivization was instituted). But by 1941 the number of wage earners had increased to more than thirty million, one-third of the working population, and the category of excluded persons had disappeared. Moreover, after that date collective farms were permitted to enter into mutual aid plans supported by the state. At the same time, a disinclination must always be made in the Soviet Union between the law on the statute books and the law in action. Both as a matter of policy and because of inadequate facilities, there are many services to which Soviet citizens are entitled which, in fact, they never enjoy.

Certain features of the Soviet social services contrast with social security provisions in other countries. In the first place, they are looked on as a part of the worker's real wages: Stalin said in 1927 that they added one-third to a worker's pay. Thus they serve not only as a protection for workers but also as an incentive to effort, and—when withheld as punishment for infringing rules—increasingly as a means to enforce labor discipline.

In the second place, there are certain distinctive features of coverage in the Soviet Union; for instance, all health facilities (doctors, dentists, specialists, hospitals, medicines, treatments) have long been free, a practice which Western countries like Great Britain (p. 199) are now beginning to adopt. Health services, administered by the Ministry of Health in each Union Republic and by local organs, are financed by the central and local budgets and amount to about 5 per cent of their total expenditures. But, generous as the provisions are, they have been implemented only in the big cities and industrial centers; facilities in rural areas are considerably poorer.

The Soviet Union also provides those other social services which are more common in Western countries: children's aid, disability and maternity benefits, superannuation allowances for those eligible for old-age pensions but continuing to work, provision of rest homes, sanatori-

ums (and travel expenses to reach them), and funeral allowances.

Most surprising to Western observers has been the absence of unemployment aid in the Soviet Union since 1930. At that time the great demand for labor did away with unemployment, and the Soviet government, as we have seen, maintains that there has been no subsequent need for unemployment aid. Critics of the regime charge that, since wages are so low that the average worker cannot save anything from his pay, the lack of unemployment aid gives managers great control over their employees. Dismissal with a black mark on an identity card prevents easy re-employment, and may thus be tantamount to condemning a man to starvation. There are, however, so many other measures to limit movement of workers from one job to another (p. 518), that lack of unemployment aid is probably a much more serious curb on labor in areas without diversified industry than in those where there is a wide variety of demand for workers and therefore such competition between managers for the available labor supply that they are willing to overlook a black mark on an identity card.

Social services in the Soviet Union differ from those in Western countries in a third way: they are not provided on a basis of insurance. Expenses are met through state and trade union budgets, and workers do not contribute directly except through their trade union fees. To raise revenue for social services, enterprises are taxed by the government in proportion to the number of workers. Because social services are not on an insurance basis, benefits cannot be claimed as a matter of right. Moreover, benefits are usually higher for trade unionists than for others, they are graded according to earnings, and the amount is largely determined by the length of service in a particular enterprise. In 1933 the All-Union Central Council of Trade Unions was told, "We must see to it that real shock workers<sup>2</sup> and those engaged in socialist competition be granted the greatest privileges when the amount of social insurance benefits of all kinds

is calculated. At the same time we must deprive 'the flyer' [a worker who keeps changing his job], the loafer, and the grabber of every right to make use of the services supplied by social insurance."

The fourth characteristic feature of the Soviet social service system is that, with the exception of health services and pensions (which are under the Ministry for Social Assistance), it is administered by the trade unions. Every factory and place of employment has a Social Insurance Council set up by the local trade union committee. Each Council has "insurance delegates" (of whom there were over 300,000 in 1938); these are unpaid delegates who check on malingering and supervise the rest homes.

In administering the social services, the trade unions emphasize official interests above those of the individual workers, though they would deny that there is any difference between them (p. 519). As we have seen, benefits are graded so as to discourage labor turnover and reward Stakhanov and shock workers: "we must also bring up the question of sending to sanatoriums, health resorts and rest homes only factory workers and office employees who are members of trade unions and have a labor standing at the given enterprise. Shock workers should here head the list." Especially in view of the relative shortage of rest homes and sanatoriums, this type of emphasis acts as an important means of labor discipline.

It may be asked why such functions are vested in the trade unions instead of in official hands, particularly when the division in the social service field between the Ministry for Social Assistance and the All-Union Central Council of Trade Unions complicates administration. The reason seems to be that the use of the trade unions gives the impression that control over most social services is vested in the workers' own organization; such an arrangement also makes it possible to tap a wide source of voluntary aid.

### Conclusion

To the outside observer it may seem paradoxical that, at a time when Great Britain is seeking to establish a "national minimum" (p. 195),

<sup>2</sup> A shock worker is a worker who exceeds standard requirements in his field through using more physical effort. In contrast to a Stakhanov worker (p. 517), a shock worker does nothing to change the production process but only increases his output through his zeal and increased efforts.

the Soviet Union has moved from its initial emphasis on equality to a strong stress on individual achievement. In education, in the position of women, and even in social security, the workers' state rewards the intelligent and the skillful, and those who have endured long periods of service and have produced much. In the process, new class distinctions are appearing in the Soviet Union, whereas in Great Britain and France the trend is towards blurring traditional class lines.

The explanation lies in the particular aims

espoused by the Soviet state at a given time. The official assumption that there is an identity of interest between the people and the government justifies the latter, at least in its own view, in using any means to achieve its most pressing purposes. Thus education and social services, which Western countries believe should be primarily for the development and protection of the individual, are now used in the Soviet Union as means to increase industrial productivity which is currently the chief objective of the regime.

## CHAPTER 10

# The Soviet Union and the Outside World

The outstanding feature of international relations since the end of World War II has been the existence of only two "super-powers" in the world: the United States and the Soviet Union. The predominance of both countries rests on their industrial strength and their strategic position, the one dominating the Americas and the other holding the central place in the Eurasian land mass. Though each has a long history of expanding influence, only since World War II have the interests of the two countries begun to touch all over the world. Neither country, moreover, has been accustomed to take a leading part in international relations, since the United States pursued an isolationist policy during most of the inter-war period, while the Soviet Union was excluded from international society because of its political unorthodoxy. Thus both were relatively unprepared for the positions of leadership forced on them by the outcome of the war.

The dominance of two powers which are so far apart ideologically has vastly complicated the problem of world peace. The United States, as the last powerful representative of nineteenth-century liberal capitalism, is the leading defender of that "free enterprise" of which the Soviet Union is the most vigorous opponent. And though both countries proclaim their devotion to democracy, the senses in which they use the word are so different as to constitute an added provocation.

Today problems arising from the difference in the political and economic aims of the two countries are complicated by fear and suspicion on both sides. Americans see a dual drive behind Soviet policy: that the Soviet Union is a new imperialist power, following in the footsteps of the Tsars or trying, like Hitler, first

to dominate Europe and then the world; and that the Soviet Union, in accordance with Marxist-Leninist teaching, is working actively for world revolution and sponsoring Communist parties in other countries in order to overthrow their governments and establish Communist states. In both respects the Soviet Union constitutes a menace to American survival.

The Soviet Union, on its side, has similar fears. Twice since the revolution its territory has been invaded by foreign armies which were anti-Communist. Hitler's invasion left permanent scars; but the Soviet leaders have also not forgotten the earlier British, French, and American intervention in support of the White Russian armies (p. 456). They now maintain that Western countries are once again undertaking an anti-Communist crusade. Behind such apprehensions lies the theory of Marxism-Leninism-Stalinism that the foreign policy of other countries is dominated by greedy capitalists and imperialists who are determined to encircle (see p. 430) and crush the standard bearer of socialism. To men indoctrinated with the dogma of inevitable class conflict between the bourgeoisie and the proletariat, it seems both obvious and inevitable that there should be a struggle between the United States, the symbol of bourgeois capitalism, and the Soviet "workers' " state. It is also likely that Soviet leaders find an atmosphere of international crisis useful in justifying the continued authority of the present leaders and the continued demand for exceptional sacrifices. Yet as always the old Bolshevik question remains: Who destroys whom?

Events since World War II have provided ammunition for the steadily rising barrage of mutual accusations. Western countries looked at

first with tolerance on the efforts of the Soviet Union to ensure that each of its neighbors have a "friendly" government as a safeguard against another invasion. But the devices used to ensure "friendship" on the part of these countries soon proved to be those traditionally used by imperialistic nations to extend their power: the use of fifth columns, military occupation, puppet governments, and even, in certain cases, outright annexation. Moreover, in the eastern European countries under Soviet control opposition has increasingly been repressed with a cynicism and ruthlessness only paralleled by similar action in the Soviet Union itself. In the East, the startling success of Communism in China was followed by war in Korea launched by the Soviet- and Chinese-trained North Korean Communists. Thus imperialist expansion in Europe was followed by what appeared to be Soviet-stimulated aggression in the East.

The countermeasures which the United States has taken, however, have only confirmed the Soviet belief in the warlike intentions of the capitalist countries. The Truman doctrine of support for Greece and Turkey was labeled pro-Fascist; even the Marshall Plan, from which the Soviet Union and eastern European countries were excluded only by Soviet decision, was declared an imperialist plot. The North Atlantic Treaty Organization is greeted as a sinister plan to create an alliance against the U.S.S.R. Thus fear has mounted in a spiral, each action calling forth a more violent reaction.

Such charges and countercharges make it all the more desirable to consider in detail the character of Soviet foreign policies and American criticism of them. Such an examination is the more important because many Soviet policies are explicable, at least in part, in terms of the characteristic features of its internal situation. Foreign policy is often said to be a projection of domestic interests into the international sphere, and of no country is this more true than the Soviet Union. Its foreign economic policies are a natural by-product of its national economic planning. Its international relations, like its national plan, are directed towards building a strong state, with defensible frontiers, independent of the influence of any other state. Its international publicity, or propaganda, is a reiteration, often by the nationals of foreign states, of

the doctrines the Soviet government preaches, at home. Its interpretation of international developments is shaped by the Marxist creed in which it has been educated.

## I. FOREIGN ECONOMIC POLICIES

There is the closest possible relation between the Soviet Union's internal and external policies in economic and financial matters. The purpose of foreign trade in the Soviet Union is not to enrich private individuals or to dispose of surplus goods, but to secure products needed for the development of its economic plan. Exports therefore are directly related to imports. The intensity of the Soviet export drive, and the use at certain times in the inter-war period of such methods as "dumping," i.e., selling on the world market at prices below the cost of production in order to secure foreign exchange, reflect the degree of the Soviet Union's need for foreign exchange with which to purchase products from outside. For it must be remembered that the Soviet Union earns no foreign credits through foreign investments or through the selling of services (like shipping) to other countries.

Its need for particular products like agricultural machinery still leads the Soviet Union on occasions to take the initiative in making trading agreements with Western countries. On the whole, however, it seeks to avoid dependence on the West. Thus it has increasingly restricted its trade to those countries in its undisputed sphere of influence or, as in Asia, to areas into which it is striving to extend its influence. Moreover, the Soviet Union has sought to acquire as much material as possible through its reparations policy.

### *Reparations*

Reparations have been, in fact, not only an important means of helping the Soviet Union recover from its enormous war losses but of establishing political control over certain areas. At the end of the war large quantities of capital goods and equipment were removed, particularly from Germany and Manchuria, and transferred to the Soviet Union or to allied countries like Czechoslovakia and Poland. This transfer



served two purposes from the Russian point of view: it helped to replace factories and equipment destroyed during the course of the war, and it reduced the economic strength of its former enemies (an argument more applicable to removals from Germany than from Manchuria). The Soviet Union also insisted on heavy indemnities from Germany, Austria, Hungary, Rumania, Finland, and Italy (though not from Bulgaria because the Soviet Union maintains that the latter voluntarily overthrew its pro-Axis government). These charges have been met mainly through payments in goods or current production (e.g., Rumanian oil). Another means of cutting expenses and also of maintaining control is through stationing large forces of the Soviet Army in many of these countries and insisting that these countries support them.

From the Soviet point of view, its reparations policy has been justified by the great destruction which it suffered during the war. Moreover, reparations have been a particularly useful means of securing goods, because there has been no need for corresponding outlay. The United States and Great Britain have accepted Soviet reparations claims in part, but both countries have opposed, though unsuccessfully, the vast extent of Soviet reparations demands on the grounds that such payment has held back or prevented the reparations-paying countries from acquiring economic stability and independence from Soviet control of their economies.

### **Trade with the Satellite Countries**

The most marked change in the character of Soviet trade since the war has been the degree to which it is geared into the economic life of the eastern European countries under its control. Prior to 1939, the Soviet Union had only about 2 per cent of its trade with Czechoslovakia and less with other eastern European nations; today more than 50 per cent of its foreign trade is with this area.

Prior to World War II Nazi Germany dominated the economic life of eastern and south-eastern European countries largely because it was their only available large-scale market. The Soviet Union has now built up a similar type of protected positions not because it offers the only available market but because the eastern Euro-

pean countries are not allowed to trade elsewhere. Arrangements with Hungary and Rumania known as *economic collaboration agreements* give the Soviet Union 50 per cent control of major industrial and shipping enterprises in these countries through transfer of former German assets. Beyond this is a network of *bilateral barter agreements* negotiated by the Soviet government, as can be expected from its state trading policy (p. 511), and concluded with the governments of the eastern European countries. Moreover, by now, the bulk of foreign trade in these countries, as in the Soviet Union, is through state-owned monopolies. All agreements specify the products to be exchanged. (The same is true with trading agreements outside its sphere of influence.) These conditions mean a great degree of certainty in securing the products involved.

An analysis of the products covered by the agreements shows that the Soviet Union has not followed the German example exactly: its need to develop its own industrial strength prevents it from exporting substantial quantities of machines and tools to its neighbors, in imitation of Germany's more mature economy. On the contrary, the Soviet Union seeks to encourage the industrial development of its neighbors, as Nazi Germany would never have done, so that it may draw upon their industrial production. But though the Soviet Union does not restrict the economic development of its neighbors to the degree Nazi Germany did, the integration of their economies and its own is still closer. A further factor encouraging this integration is the Soviet zone "mutual aid" plan under the Council for Economic Mutual Assistance which was established early in 1949 to counter propaganda on behalf of the Marshall Plan.

### **AMERICAN OBJECTIONS TO SOVIET ECONOMIC AGREEMENTS**

The United States objects to several features of Soviet economic agreements. Since 1933 the American government has encouraged freer international trade on a multilateral basis. On general principles, therefore, it opposes bilateral arrangements as placing a strait jacket on the course of trade. The United States also opposes state trading as limiting the enterprise of private traders. Above all, it realizes that Soviet

politics are excluding other nations from trading opportunities in eastern Europe, which means not only that American trade is cut off but also that western Europe is prevented from drawing food from one of its major customary sources.

In August 1946 Molotov told the Paris Peace Conference that the American doctrine of equality of opportunity was "convenient for those who are trying to use their capital to subjugate those who are weaker." Americans have watched with still greater apprehension the all-too-successful efforts of the Soviet Union to carve out an exclusive sphere of influence in eastern and southeastern Europe, as well as in outer Mongolia and Sinkiang. While they can understand that the Soviet Union seeks to safeguard the external sources of supply for its national plan, the degree of control exercised over its neighbors can hardly be justified in terms of economic need alone.

## II. FOREIGN POLITICAL POLICIES

In the political sphere there is also a close interrelation between Soviet domestic and external policies. Soviet leaders declare (p. 506) that their plans for developing the national economy are motivated by fear of external attack and by a desire to build a strong state independent of outside influence. In such a context, expansion of heavy industry and expansion of "strategic" frontiers are corollaries. The similarities between Tsarist and Soviet strategic aims reinforce, rather than lessen, the point, since modern warfare places a high premium on space as well as on technology.

### *European Expansion*

Immediately after World War II, the Soviet government's chief concern was to strengthen the European position of its country. Between 1939 and 1947 the Soviet Union re-established the main lines of the European frontiers of Russia as they had been forged by a succession of Russian rulers since the time of Peter the Great and as they existed when the last of the Romanovs was killed in 1917. Estonia, Latvia, Lithuania, and eastern Poland were reacquired in

accordance with the German-Soviet agreements of 1939, and the transfer was confirmed by the Soviet-Polish Treaty of August 1945. Moreover, the Soviet Union also acquired certain areas in East Prussia, Bukovina, and the Carpathians which had never belonged to the Tsars. Germany had agreed in 1939 to the cession of Bessarabia to the Soviet Union, and the transfer took place through the Soviet-Rumanian Agreement of June 28, 1940, which was explicitly confirmed in the Rumanian Peace Treaty of 1947. The Finnish Peace Treaty similarly re-established the former Russian positions on the Baltic and in the Arctic, although Finland continued to be independent in form. Only at one point, the Dardanelles, did the Soviet Union fail to attain the territorial goals set by its predecessors.

These new boundaries do not follow lines of nationality, partly because peoples on the vast plains of eastern Europe have mingled too inextricably to be separated into nation states, and partly because the Soviet aim is primarily a strategic one: to secure the maximum protection for the triangle formed by its three chief European cities, Leningrad, Moscow, Kiev. This means safeguarding the three main routes through which an invasion can be launched from the west against this strategic triangle. Napoleon's armies took the northerly route through the endless northern forests when they marched on Moscow in 1812. Hitler's armies when they launched their attack followed the center route across the plain south of the great Pripyet marshes. Soviet strategy seeks to guard not only these two approaches but also the more southerly route from the Danubian Basin. At the same time the Russians wish to place the Soviet Union in a position itself to direct offensives in these directions.

### THE SATELLITE COUNTRIES

But strategically the Soviet Union depends less on a fixed boundary line than on a *boundary zone* within which its "satellite" countries in eastern and southeastern Europe find their places. This boundary zone has been brought and kept under Soviet control through three means: the dominance of the Red Army, the control exercised by local Communist parties through the "people's democracies," and a revolutionary policy in regard to the peasants which

at first secured their support through land reform programs, and subsequently attacked their independence through pressure against the independent peasantry and co-operatively organizing the less well-to-do as a move towards collectivization.

*The Red Army.* The Red Army has been the spearhead of Soviet advance in eastern and southeastern Europe. Only in those areas it "liberated" (and these do not include Yugoslavia) has Soviet control remained undisputed. Although there has been an effort to keep military pressure in the background, the overwhelming predominance of Soviet armed forces has been the essential framework within which the Sovietization of eastern Europe has taken place.

The Red Army, now numbering about three million apart from the satellite forces under its direction, is both a military and a political force. There is a constant program of political studies for the troops which emphasizes the class antagonisms underlying the irreconcilable hostility of the Soviet Union and the capitalist world. Because the soldiers have more chance than ordinary Soviet citizens to secure information about conditions in the West, they are watched with particular care by the secret police so that their dual role as protectors of the Soviet state and promoters of Marxist-Leninist-Stalinist doctrine is not neglected.

*The "People's Democracies."* Though the Red Army has made Soviet control in eastern Europe possible, the major instrument of Soviet policy in these countries is now the local Communist parties. These parties often began as minority participants in united-front coalitions but by the time the coalitions acquired governing power, the Communists had generally seized their leadership through control of the key instruments of force: the police and the army. Some of these united front regimes were recognized by the United States and Great Britain at the end of World War II and even assisted with loans and propaganda.

This stage of the united-front rapidly gave way, however, to the regime known as the "people's democracy." This marks a transition stage from capitalism to socialism and is characterized by the ruthless wiping out of all non-Communist elements in the government and throughout the country. The "people's democ-

racy" is organized under a constitution which places full legislative control in a popularly elected (and easily packed) assembly. This assembly elects a presidium, or steering committee, which is in permanent session and in turn selects the cabinet and all top officials. Communist control is exercised through this façade which provides the legal framework within which the Communist program can be implemented. Though the constitutions differentiate between those parts of the economy which are to be nationalized immediately and those left to private persons or co-operatives, the implication is that full socialization will be carried through as soon as possible, not only in industry but also in agriculture. Though the rapidity of action seems to violate the customary stages through which development takes place according to Marxist theory, Communists like the Bulgarian, Dimitrov, declare that the "people's democracy" can proceed without delay in establishing socialism "provided that it is based on Soviet support."

The practical co-ordination of policy between the Soviet Union and its satellites is secured through a network of official and unofficial agencies. The local Communist leaders make frequent trips to Moscow; the Soviet diplomatic representatives in their countries have an unconcealed special relationship to the regimes to which they are accredited. Even more significant are the representatives of the Soviet secret police and the Soviet Communist Party who, unknown to the public and apparently sometimes even to each other, send a constant stream of information to the Soviet Ministry of State Security and the Soviet Politburo. In addition, there is an interlocking series of alliances which pledge mutual assistance and provide the military counterpart to the close political arrangements.<sup>1</sup>

*The Drive against the Peasants.* To impose socialism in countries which, like those of eastern and southeastern Europe, have an overwhelming proportion of peasants means, in effect, to establish control over them in the pattern already instituted in the Soviet Union. In

<sup>1</sup> A more detailed description of the development of political and social distributions in a satellite country can be found in the section on Germany in those portions dealing with Eastern Germany.

his significant study of Marxist theory and practice in dealing with the peasants, *Marx against the Peasant*, David Mitrany points out that from 1948 when the Cominform attacked Marshal Tito for failure to follow the Stalinist line (see p. 567) the "people's democracies" moved with increasing speed and violence away from the stage of gaining peasant support through assuring them the land into the period of transition of bringing the countryside within the orbit of the planned economy. On the one hand, they deliberately "sharpened the class struggle" between the poor peasants and the kulaks; at first with caution but soon by force they pressed the peasants into co-operative farming. Communist leaders were saying by the end of 1949 that the "people's democracies" were in a stage comparable to that of the NEP of the Soviet Union. Despite resistance by the peasants, and the gallant but unsuccessful opposition of the Church especially in Hungary and Poland, the peasants are being driven inexorably towards complete collectivization which means in effect the destruction of their independence and the complete co-ordination of their countries with the Soviet Union.

#### WESTERN OPPOSITION TO SOVIET EXPANSION IN EUROPE

It is the Soviet dominance of its neighboring states, rather than its expanded boundary lines which Western countries have opposed. The United States and Great Britain tried to ensure after the war that the eastern and southeastern European countries would develop independently under united-party national direction, and with close relations to themselves as well as to the Soviet Union. They vigorously protested the ruthless elimination from the political life of their countries of those groups which wished to keep open the channels between the West and the East; they watched with horror the persecution of eminent Church leaders. Yet they have found themselves helpless to prevent the progressive Sovietization of the area behind the Iron Curtain. Thus they have had to concentrate their efforts on preventing a further spread of Soviet control by strengthening the Western forces in Europe under the over-all direction of the North Atlantic Treaty Organization (see p. 223) and by economic policies designed to

prevent rearmament from seriously impairing the economic recovery so painfully achieved by Western Europe.

#### *Policies in the Far East*

In the Far East, the picture is a somewhat different one from that in Europe though no less threatening to Western interests. In China, the Communists came into control not, as in eastern Europe, under the aegis of the Red Army, but, like Yugoslavia, as the result of their own efforts. In fact, Chinese Communism has roots in classical Marxism as deep and direct as those of Russian Communism. Yet although China is a co-ordinate rather than controlled Communist state it would be over-optimistic to anticipate serious clashes of interest between it and the Soviet Union. While it is true that the Chinese Communists disregarded Stalin's advice when they pressed their final and unexpectedly successful drive against the Chinese Nationalists, there was no such attempt to bring them into line as there has been with Yugoslavia; on the contrary the Kremlin tactfully and warmly endorsed their accession to power. In general, the common acceptance of Marxist ideology with its assumption of an irreconcilable class conflict with non-Communist countries holds China and the Soviet Union together as against the West. More explicitly, the signing of the Sino-Soviet Treaty of Friendship, Alliance, and Mutual Assistance, in February 1950, instituted a close political relationship as the result of which Communist China is to receive, at least by the end of 1952, installations and rights in Manchuria held until then in Soviet hands. Beyond this, there is much fear in Western circles that the Korean war, particularly since active Chinese intervention, marks the transformation of a jointly inspired Communist drive in Asia into the stage of active hostilities.

Since June 1950, the focus of attention naturally has been upon this conflict precipitated by the North Korean Communists, at least with tacit Soviet support, against South Korea which, in turn, is being defended by United Nations forces. In two other areas, however, Malaya and Indo-China, Great Britain and France respectively have long been battling with Communist forces, now reinforced from Communist China

# SOVIET EXPANSION IN THE WEST SINCE 1939

-  U.S.S.R. IN 1939
-  AREAS ANNEXED BY U.S.S.R. SINCE 1939
-  SOVIET OCCUPIED ZONES IN GERMANY & AUSTRIA
-  COMMUNIST CONTROLLED COUNTRIES
-  COMMUNIST BUT NOT UNDER SOVIET CONTROL
-  FINLAND (NOT UNDER COMMUNIST CONTROL BUT IN RUSSIAN SPHERE)
-  BOUNDARIES OF 1939



SCALE OF MILES  
0 100 200



# SOVIET EXPANSION IN THE EAST SINCE 1939

-  U.S.S.R. IN 1939
-  AREAS ANNEXED BY U.S.S.R. SINCE 1939
-  SOVIET CONTROLLED COUNTRY
-  COMMUNIST CONTROLLED COUNTRIES
-  BOUNDARIES OF 1939

SCALE OF MILES

0 100 200 300 400 500



itself. Thus the pressure forcibly to expand Communist influence out to the rim of Asia is intensified.

#### WESTERN POLICIES IN THE FAR EAST

In the Far East, the Western countries are resisting Communist expansionism by both military and economic means. In the first effective military action undertaken under the United Nations, troops from the United States, British Commonwealth countries, Western Europe and Latin America have fought together in Korea. Moreover, through the American Point Four program, the Commonwealth Colombo Plan (see p. 220), and United Nations technical assistance, the Western countries are aiding the economic development of the countries of southern and southeastern Asia in an effort not only to undercut Communist propaganda but more particularly to help them develop into independent and self-reliant nations capable ultimately of meeting their own economic and strategic needs. In the over-all picture of Western strategy in the Far East, Japan, particularly since the signing of the San Francisco Peace Treaty in September 1951, plays an important role as a modern, industrial nation with a substantial middle class which, if it continues to adhere to the West, may provide a significant bridge between Western technology and Asian needs. Even more important than economic and military measures in Asia, however, may well be the degree of confidence which Western countries are able to instill in the Asian masses and their leaders, for only if the latter believe that help is being extended for their own sakes, and not as pawns in a gigantic anti-Soviet campaign, are the results likely to accrue to the advantage of the West.

### III. INTERNATIONAL NEGOTIATIONS

Despite the mounting signs of antagonism between the Soviet Union and the Western powers, they have continued to attend an almost continuous series of international meetings for the purpose of reaching joint decisions on a vast variety of international issues. Some of these meetings have been through the channels of the

United Nations, which, though established as a wartime coalition, was quickly transformed into a formal body whose chief aim was the maintenance of peace and the establishment of economic and social conditions conducive to international stability. Others have taken place in more temporary bodies established to draw up the peace treaties. Since the Soviet Union like all other Great Powers was a participant in all these bodies, it was originally hoped that peace settlements would be made soon after the fighting ceased so that the energies of all the nations could be concentrated on reconstruction and the establishment of sound bases of peace.

Yet the most wearing feature of postwar diplomacy has been the difficulty of persuading the Russians to agree to anything. The European Advisory Committee, set up to co-ordinate the postwar policies of the Big Three, met over 500 times without reaching any important decisions. The Council of Foreign Ministers, set up at Potsdam in 1945 to prepare for the peace settlements, met 122 times over a period of fifteen months before securing agreement on the peace treaties with Italy, Bulgaria, Rumania, and Hungary, and even then could not settle controversial issues like the future of the Italian colonies which were ultimately dealt with by the United Nations General Assembly. The Security Council of the United Nations has been blocked over and over again by the Soviet Union's use of the veto. In the meantime the international situation has steadily deteriorated for lack of settlement of outstanding issues, and *de facto* arrangements largely determined by the position of troops have tended to be perpetuated.

#### Soviet Diplomacy

Experience has shown that the Russian technique of diplomacy and understanding of compromise differ from those of the Western powers. Negotiations are tightly controlled by the Politburo. The main objective is to secure full acceptance of every Soviet proposal and to say "No" to every other suggestion, at least at first. When the Soviets do accept a compromise, it is not looked on as a solution but merely as a step towards securing their original goal. Various other means to secure the first objective are then tried.



International diplomacy, like international policies, is a reflection of domestic methods and aims. The Russians have within their totalitarian structure no parallel to the constant process of negotiation and compromise which forms the pattern of life in a democratic country. Soviet trade union leaders bring information to the directors of industry, but they do not "negotiate" with them as the C.I.O. negotiates with United States Steel. The Five-Year Plans are drawn up by experts on the basis of objectives laid down by the Soviet leaders, not hammered out through the give and take of party and pressure groups. Therefore it is not surprising that in international negotiations the Russians adopt the same approach: presenting their decisions and working by every means to realize them, instead of adopting the typically Western approach of seeking an agreement even at the cost of modifying initial aims.

Moreover, throughout their history, Soviet leaders have aimed at the total destruction and elimination of their enemies, whether members of the old ruling classes, or Mensheviks, Social Revolutionaries, kulaks, or Trotskyites. When the enemy has been too strong to be liquidated, they have retreated temporarily, as in the New Economic Policy or the relaxing of the drive for collectivization of the farms following Stalin's article, "Dizzy with Success" (p. 457). But they have never abandoned an original intention. Instead, they have waited until the enemy was weakened or until they themselves had gained enough strength to make a new and successful attempt. For in the Marxist-Leninist teaching, there is no provision for compromise but only for ultimate triumph over an enemy who is foredoomed to annihilation. Even the church has been tolerated only because of its complete subordination to the policy of the state.

#### IV. INTERNATIONAL COMMUNISM

Even more disturbing to the Western democratic countries than the tactics adopted openly by the Soviet government is the secret promotion of Communist ideas and, they fear, of Communist activity against their own institutions.

#### *Propaganda in Foreign Affairs*

Organized propaganda, a relatively new instrument in foreign affairs, is used, as in internal affairs, to win mass support for a particular point of view. Propaganda is a particularly effective instrument for the Soviet Union because, in the first place, it can hardly be silenced in countries like the United States, Great Britain, and France without violating democratic traditions of freedom of speech and so impairing the foundations on which political liberty rests. The Soviet Union, in contrast, is quite uninhibited in maintaining a strict censorship designed to prevent outside information and opinion from reaching its people.

In the second place, every democratic country has a Communist party which, in practice, acts as the defender and supporter of the Soviet Union's foreign policy. This means that propaganda in favor of Soviet aims and methods does not emanate from the Soviet Union alone<sup>2</sup> but is carried on within foreign countries by native citizens who have become vigorous and devoted adherents of the Soviet cause. Such a development is, of course, impossible within the Soviet Union itself, where there is no tolerance of an opposition party, let alone the expression of opinion by the adherents of a "foreign" ideology like "bourgeois democracy."

These two factors give the Soviet Union an enormous advantage in the conduct of foreign policy. The foreign policy of the Western democracies is completely dependent upon public opinion, and the Soviet Union can influence this opinion directly through propaganda and indirectly through native Communists and fellow-travelers. But the Western democracies have no comparable way of influencing Soviet opinion, and whatever the Soviet government does (whether, for example, it leads the fight against Fascism or makes a pact with Hitler) there can be no public protest. One of the gravest problems of American diplomacy has been to develop a way to influence Russian opinion. Some Western countries have adopted "intellectual"

<sup>2</sup> As early as 1921 Great Britain concluded an agreement with the Soviet Union whereby the latter agreed not to promote propaganda within the British Empire, and American recognition of the Soviet Union in 1934 was made conditional upon a similar pledge. But no effective way has been found to enforce such an agreement.

propaganda in the form of broadcasts (through channels like the B.B.C. and "The Voice of America") of the news as Western countries see it. But compared with the effectiveness of Communist propaganda, the effects of their efforts are trivial.

### *The Comintern*

Even more serious than the propaganda of active Communist parties is the fear that such parties are acting as agents of the Soviet Union, both individually and collectively.

Throughout the inter-war period, the outstanding evidence of joint action against the capitalist states was the Comintern, or Third International, an international revolutionary body organized by Lenin and his followers late in 1918 to unite the forces of Communism in all countries and to aid the progress of world revolution. (There had been two earlier international workingmen's associations, both of which broke down under strain.) Since the headquarters of the Comintern was in Moscow, and since, particularly after 1929 when Stalin had consolidated his position within the Soviet Union, both the international organization and national Communist parties followed whatever line of policy the Kremlin decided, foreign countries looked on the Comintern as the foremost instrument of the Soviet Union in promoting universal revolution, and thus as a menace to their domestic institutions. Much of the fear and suspicion of the Soviet Union in the inter-war period arose from this belief that it was using the Comintern (and thus national Communist parties) to foment trouble in other countries and to overthrow their governments.

In May 1943 the Comintern was formally dissolved, and this gesture made it easier to build the successful wartime coalition among the United States, Great Britain, and the Soviet Union. Stalin declared that the dissolution "exposes the calumny . . . to the effect that Communist parties in various countries are allegedly acting not in the interest of their people but on orders from outside." However, national Communist parties continued in existence, and there was little evidence that the disappearance of the Comintern brought any change in their dependence on the Soviet Union. On the rare occasions

when an outside Communist party took a different line from that of the Soviet Union on a question of great national interest, there was considerable evidence to indicate that the "disagreement" was one adopted for tactical purposes with the prior consent of Moscow.

### *The Cominform*

Evidence that there was need, however, for a new body both to co-ordinate and to spur the activities of Communist parties was given in October 1947 when an organization known as the Cominform was established. This was, in effect, the reply of the Soviet Union to the Marshall Plan. More positively, its aim was to intensify political action by Communist parties outside its sphere of direct control, in particular those of Italy and France, and to consolidate Communist power in eastern Europe, an objective meaning, in practice, the increased subordination of local Communist parties to Moscow.

As originally set up, the Cominform differed in several respects from the old Comintern though more in appearance than in fact. Where the latter was universal in scope and organization, the Cominform originally included representatives of the Communist parties of only nine countries—the Soviet Union, Poland, Czechoslovakia, Bulgaria, Hungary, Rumania, Yugoslavia, France and Italy—in all of which the Communist Party was very strong. An important Cominform declaration of July 1948 referred to China, however, and it is known to be operating also in southern and southeast Asia. A second difference from the Comintern is that the headquarters of the Cominform is outside the Soviet Union, being originally established in Belgrade, Yugoslavia and subsequently in Bucharest, Rumania. A third difference, according to the Manifesto, was that the new organization would not demand absolute obedience of its members, as had the Comintern. The tasks of the Cominform, stated the official announcement of its establishment, were "to organize and exchange experience, and in case of necessity, co-ordinate the activity of Communist parties on foundations of mutual agreement." But, in fact, from the first the Cominform, like the earlier

Comintern, used the authoritative tone of a high organ of orthodoxy.

As far as the Communist parties outside the Soviet sphere of influence were concerned, the Cominform laid on them a double obligation: to consolidate their leadership of the working classes in their respective countries, and to ensure the failure of "American policy" (or in other words, economic recovery) in Western Europe. Co-operation with other political parties, and national effort for economic advance, were to be replaced by sabotage and direct action. Both in France and Italy the first general strikes in response to this demand for violent action were called within a month of the formation of the Cominform. But though direct action has been used sporadically ever since in both countries, it has not awakened the hoped-for popular enthusiasm which could transform it from the serious enough handicap to economic development into a threat to national unity.

For the Communists behind the Iron Curtain, the Cominform has proved to be the instrument of the Soviet Communist Party in enforcing a new doctrinal orthodoxy and political discipline. According to this new orthodoxy, Marxism is inseparable from Stalinism, and the Soviet Union is necessarily the vanguard of international Communism. Anti-Sovietism, or even emphasizing nationalism above obedience to Soviet leadership thus becomes, by definition, heresy to the Marxist-Stalinist dialectic.

The attack on the new deviationists became startlingly public in June 1948 when Yugoslavia was expelled from the Cominform for having "pursued an incorrect line on the main questions of home and foreign policy, a line appropriate only to nationalism, and which represented a departure from Marxism-Leninism." This "incorrect" line was said to consist of giving the People's Front not the Communist Party the lead in politics (though in fact the Yugoslav Communist Party had a more undisputed and monolithic control than existed in most other Balkan countries) and of declaring the peasants to be "the most stable foundation of their State," a role reserved for the proletariat. In fact, however, the supreme sin was revealed to be the failure to adhere rigidly to the purposes of the Communist Party of the Soviet Union. The Cominform declaration made this quite obvious

by maintaining that "every Marxist party" must accept "the basic organizational principles" evolved by the Communist Party of the Soviet Union and by calling on the Yugoslav Communist Party to overthrow Marshal Tito if he refused to conform.

The effect of the Cominform declaration, however, was to strengthen rather than weaken Marshal Tito's position in Yugoslavia. Moreover, though originally reluctant to embark upon controversy, Tito gradually took up a position of opposition to the Stalinist leadership, challenging its overcentralization of power (though his own is no less centralized), and maintaining that Yugoslavia, not the Soviet Union, possesses the true Marxist orthodoxy. In this conflict, in which armed intervention by the Soviet Union through the adjoining satellite states has always been a possibility, the United States and Great Britain have lent not only moral but also economic and even military support to Yugoslavia. While there is understandable satisfaction among Western powers at the degree to which "Titoism" is a symbol of successful challenge to Soviet leadership among Communist nations, it should not be forgotten, however, that Tito continues to uphold Marxist-Leninist philosophy and, in this sense, is hardly a dependable ally of the West.

The Soviet Union has had far more success in its attack on deviationism in the five satellites where the Red Army has control than it has had with Yugoslavia. Between July 1948 and November 1949, a wave of purges destroyed those, like the Communist leader Kostov of Bulgaria, who were declared guilty of nationalist deviations. Thereafter an intensified campaign of "Stalinist teaching" was launched. In conjunction with this was the new, positive definition of the "people's democracy" (see p. 560), now made part of the creed of political orthodoxy: that it is the state in the transitional period towards socialism, and that it rests on the support of the Soviet Union, or perhaps more accurately of the Red Army.

The exercise of such open pressure by the Soviet Union on the satellite states is evidence of the failure of the Cominform to achieve its purposes by co-operative action. But little comfort arises from such observations. Whatever changes take place behind the Iron Curtain can

only strengthen the control of Moscow over the satellites. Barring a substantial weakening of the international position of the Soviet Union or a radical change in the leadership and organization of its Communist Party, it seems inevitable that the control of the Soviet Union over these five countries—Poland, Czechoslovakia, Hungary, Bulgaria, and Rumania—will be progressively tightened.

States beyond the orbit of the Red Army, however, are in a very different position. Only in Czechoslovakia has a modern industrial state succumbed to Communism and then as the result of direct intervention. It seems highly unlikely that the Communist parties in either Italy or France can seize control unless their countries are defeated in war. Moreover, in these countries and also in some of the independent areas of Asia, the rigid orthodoxy which the Cominform, like the old Comintern, is enforcing on local Communist parties leaves them open to the charge of placing foreign interests above national. Thus it has heightened the tension between the Communist and non-Communist parties within other countries, and made more obvious the division between the Soviet Union and its followers on the one hand and the Western powers on the other.

### Conclusion

Any realistic appraisal of Soviet foreign policy must take two factors into consideration.

In the first place, Soviet leaders enjoy a freedom and flexibility in the conduct of policy which is unparalleled in western lands. In the United States, for example, President Roosevelt began to warn of the menace of Fascist aggression in 1937; but it was not until Pearl Harbor that he ceased to meet powerful opposition. But the Soviet Union, in August 1939, was able to shift its official policy overnight from one of hostility to Fascist aggression to one of co-operation with it; and there was no public opposition at all. Therefore, what matters in the Soviet Union is the set of ideas which dominates the thinking of its leaders.

The second consideration is the lack, already mentioned, of any tradition of tolerance or agreement through compromise. On the contrary, the Soviets hold a dogmatic belief in the

ultimate inevitability of world revolution as the result of which capitalism will suffer a violent death. This revolution may be long delayed, but the preliminary struggle has begun. The capitalist powers, like the capitalist classes, inevitably will strive, according to this belief, to crush the working classes at home and, abroad, to crush the Soviet Union, the representative of the working classes.

Every action of the capitalist powers is interpreted as directed to this end. The older leaders of the Soviet Union themselves remember the intervention of the Allied powers at the end of World War I. The younger leaders have been indoctrinated from their earliest years in the belief that the capitalist powers will ultimately join in a new anti-Communist crusade. Thus Soviet representatives abroad view international developments in terms of the dogma with which they have been indoctrinated, and the reports which they send back confirm Soviet leaders all the more strongly in their doctrinal rigidity.

Yet it is unlikely that the Soviet leaders have any intention of precipitating a struggle until they are certain that they can win it. So long as the Western powers are strong, not only militarily but morally, there will be every reason for delay. Since the Soviet leaders are convinced that the capitalist world will ultimately decay and disintegrate, they can well afford to wait.

The challenge which the Soviet Union raises for Western countries is twofold. In the first place, capitalism is challenged to prove that it can provide and maintain prosperity. On the face of things, the West is much stronger materially than the Soviet Union and its satellites. The United States has its productive capacity unimpaired. Even Great Britain and France, in spite of the economic crises caused first by the war and subsequently by rearmament, have a far higher standard of living than the Soviet Union. Every step taken towards establishing economic stability in the world is a practical denial of the Soviet assumption of the impending collapse of capitalism. If, however, economic crisis and depression (which Marxists believe is inevitable under capitalism) cause mass unemployment and social discontent—that is, if capitalist strength decays from within—the time

may appear more propitious for Soviet action. In this sense, then, economic prosperity is the West's surest guarantee of peace.

The second, and even more basic, challenge is to the democratic faith of the Western peoples. Can democracy provide internal cohesion and external co-operation which will be strong enough to match the unity of purpose which the Soviet government can enforce upon its people and its satellites? Can democratic countries persuade their people to accept hardships for the

sake of external purposes like the economic recovery of other countries?

It is the pride of democracy that when its peoples recognize the need for common action, they contribute initiative, self-reliance, and freely willed sacrifice to its achievement. In the trial of moral strength to which the Soviet Union challenges the Western world, the decisive factors may well be the steadiness and foresight of Western countries and the vitality of their democratic belief and practice.

# Conclusion

One's final judgment of the Soviet government inevitably will depend upon one's judgment, not only of what objectives are most important, but of the order in which these objectives can be achieved. The person who believes the most important consideration is the freedom of the individual to develop his talents and potentialities, and that the good life is inconceivable without freedom to question, to challenge, to choose for oneself, and even to make mistakes, will detest the uniformity of thought imposed by the Soviet government, the control of speech and of the press, the adulation of the leader, political absolutism, and the deliberate use of terror, forced labor, and the political police. The person who believes the most important objectives are a great increase in industrial productivity, and security against unemployment, inevitably feels more sympathy with the Soviet system. And particularly in underdeveloped areas, there is no easy way of achieving both objectives at the same time.

It would, of course, be infinitely simpler for the foreign observer if political absolutism, brutality, and the suppression of freedom always went hand in hand with technical backwardness; and it has been particularly difficult for Western liberals, who take it for granted that "progress" is a good thing in itself, to realize that economic and technical progress may be achieved by the use of political practices which have always been associated with the most benighted and reactionary governments. Quite often the dilemma is stated in terms of means and ends, the Soviet citizen presumably saying that the rapid industrialization of a vast population justifies the (perhaps temporary) use of force and suppression of political and intellectual liberty, the Western critic insisting that nothing can justify the use of means which are inherently evil.

Actually, the disagreement is more profound.

The problem might be called one, not of means and ends, but of means and consequences. The use of the instruments of tyranny may actually accomplish certain material advances: but these results are not the only results. For the prolonged use of instruments of coercion and tyranny inevitably produces a society deeply marked by these qualities. The consequence, then, whether or not it is deliberately willed, is not just greater industrial power or a larger harvest but also a different type of human being, one who may ultimately be better fed or clothed but whose intellectual and spiritual growth has been stunted.

The consequence is also a different type of state. For men cannot use the instruments of force over a long period of time without acquiring the habit. There is, in fact, a sort of natural selection which brings to the highest positions in the Soviet government, not those who are skilled in democratic leadership, but those who are adept in running the dictatorial institutions which at present exist. There is considerable naïveté, then, in expecting such men, at the appropriate hour, to introduce a regime of political liberty and democratic action in which they have had no experience, for which they lack the necessary skills, and of which they have no understanding.

It is sometimes suggested that certain Soviet gestures toward political democracy might, under favorable circumstances, acquire greater significance. There is criticism of minor officials; and in the course of years it may seem natural also to criticize major ones. People are encouraged to participate in (though not to control) local government, and the experience and talents which develop in this way might be utilized in the making of national policy. Election laws anticipate the possibility of contested elections, and the Constitution implies the existence of a diversity of opinion within the Supreme

Soviet itself. Stalin claims to be responsible to both party and public organs and to speak in their name, not his own. And it is occasionally said that a national election is intended to pass judgment upon the work of the national government, with the implication that the people have the right to control it. Some people have even hoped that as a new generation grows up, with no memory of other or earlier forms of government and with an unquestioned loyalty to Communist principles, there might be some recognition, at least within the Party, that criticism of certain policies of the Party's leaders is not a sign of treachery or potential revolution.

Such possibilities have become more, not less, remote; the government has tightened, not relaxed, its control. The campaign to enforce orthodoxy is as systematic and ruthless within the Soviet Union itself as in the satellites. In particular, the cultural purge (see p. 447) which began in 1946 indicates that the government is more determined than ever to prevent any discussion, questioning, or criticism, of even the most obscure and indirect sort, of its principles and policies. Indeed, for the present rulers of the Soviet Union to yield their power and to

submit themselves to the judgment and direction of their people would constitute a sacrifice of authority for which history offers no precedent and for which the training and intellectual heritage of the leaders provide no real basis. For the foreseeable future, then, there can be no expectation that the Soviet Union will even move towards the much-talked-of synthesis of liberty and security.

The Western democracies, accordingly, face the challenge of showing that their methods are better calculated to achieve the desired synthesis. For there are many millions of people—perhaps the majority of mankind—to whom individual political and civic liberty may be of little importance in comparison with the rapid achievement of industrial power. If convinced that it is necessary to choose between these objectives, Asians and even Africans may select the Soviet path. In this sense, the attempt of the Western democracies not only to achieve the good material life for themselves through free consent and without the sacrifice of civil liberties but also to aid the underdeveloped countries to achieve the same synthesis may well be of decisive importance in determining which system they will adopt.





## PART FOUR

# THE GOVERNMENT OF GERMANY

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## CHAPTER 1

# German People and Politics

### I. THE GERMAN PROBLEM

#### *Germany between East and West*

Germany today faces a problem that is faced by no other important power: Will it be able to survive, or rather re-emerge, as a political unit? The Iron Curtain, which divides what we have come to call "the West" from the Soviet-controlled "East," runs through the heart of Germany. As a consequence, two political units with diametrically opposed political systems exist side by side within the partitioned country—the Soviet-dominated "German Democratic Republic" and the Western-oriented "German Federal Republic." Both claim the right to speak for all Germany, and the German people tremble lest the contest between East and West be fought over the German issue on German soil. There are some, however, who hope that such a contest might give Germany a chance to play a dominant role again. For Germany, despite its present plight, is still potentially a major power.

This oscillation between everything and nothing is not novel for Germany. No other major country has undergone such frequent and extreme political changes in modern times. In the period during which the United States steadily developed as a nation, Germany swung between such violent extremes as from fragmentation and utter disunity (up to 1871) to unification (after 1871) and centralization (under Hitler); from powerlessness to a commanding power position; from authoritarianism, without genuine constitution, to democracy, endowed with one of history's most accomplished liberal-democratic constitutions (Weimar period), and back to complete totalitarian tyranny; and, in

another sphere, from spiritual greatness and cultural achievement, reflected in the names of its philosophers, poets, composers, like Kant, Goethe, Beethoven, to the moral abyss of the Nazi concentration camp. No wonder that to the world Germans have alternately appeared as good and bad in the extreme, that admiration time and again has given way to detestation. After a second global war had been fought to restrain Germany from terrorizing the world, the victors finally felt compelled to inflict on it the boldest experiment in planning ever undertaken: to "re-educate" and "democratize" an entire people. Although the initial enthusiasm with which the Allies approached this task in 1945, when Germany had surrendered unconditionally, has since vanished and the former Allies have now fallen out among themselves, the problem still exists. Is there any hope for democracy in Germany?

#### *Germany between Authoritarianism and Democracy*

Many believe that there is no hope. To them Germans always have been and will be a prey to some form of authoritarianism: old-style Prussian conservatism, recent fascist-type totalitarianism, Communist control, as presently shaping up in Eastern Germany, or a neo-Nazism, whose shadow is lengthening over Western Germany despite the apparent turn there toward a more genuine liberal-democratic system. Others believe that, given a chance, Germans might achieve democracy as easily as any other Western nation. But the truth seems to be that Germany, politically as well as geographically, is a "middle country" be-

tween the Western countries with their longer and firmer traditions of democracy, and Russia with its almost complete absence of any such traditions. Western influence was strong enough to give Germany ideas, movements, and sometimes even institutions which were basically liberal and democratic. But—and this has been the tragedy of the German past—such forces never proved strong enough for any length of time to prevail against the authoritarian counterforces. Yet that could have been said for France, too, when the Third Republic was in its beginnings. So there may be hope for Germany (at least for its Western half). The outcome can be decisive for the future of the world, for Germany's presence in the democratic or the totalitarian camp may, because of its geographical location, resources, and capacities, decide the balance of power of the future.

## II. THE LAND AND THE PEOPLE

### *The Land*

The land traditionally referred to as Germany is located in the heart of Europe, bounded, roughly, by the Alps in the south, the North Sea and the Baltic Sea in the north, by France and the Low Countries in the west, and in the east by whatever Slavic countries existed or exist as political units. The vagueness of this statement attests to the difficulty of defining Germany geographically. The map of Germany in different historic periods shows that less than a hundred years ago "Germany" was simply a "geographical expression" for the many territorial units into which Germany was fragmented politically. After its unification, in 1871, Germany reached from beyond the river Rhine in the West to far beyond the river Vistula in the East and was, with over 200,000 square miles, one of the largest countries in Europe; further, since this was a period of colonial imperialism, it acquired possessions outside of Europe, in Africa and the Pacific Ocean. These it lost in 1919 as result of defeat in the first World War; but even more important were its territorial losses at home: in the West, Alsace-Lorraine, gained from France in 1871,

was lost to France, and in the East much territory bordering on the Vistula was ceded to newly established Poland, leaving one German province, East Prussia, geographically detached from the main part of the country. Reaction came with a vengeance: Hitler, at the height of his power, not only controlled most of the European continent politically but actually incorporated into Germany so much territory (Austria, Bohemia, most of Poland, and so forth) that "Greater Germany" looked almost like a fat round ball.

### PRESENT TERRITORY AND POPULATION

At one point in Germany's variegated history a philosopher, despairing of bringing his country under any of the accepted categories, called it *monstro simile*, a geographical and political monstrosity. This definition might apply today. Legally speaking, in the absence of a peace treaty, the boundaries of pre-surrender Germany might still be assumed to exist—but with or without Hitler's annexations? The Allies, after the surrender, agreed that pending the final treaty the frontiers should be those of 1937 (prior to Nazi expansion), but that vast territories which were German even at that time, namely all those east of the rivers Oder and Neisse, should be administered by Poland, except for the northern half of East Prussia, which would be administered by the Soviet Union. These territories, in actual fact, now constitute integral parts of those countries; but most Germans, backed by the Western powers, maintain their claim to the 1937 boundaries. In addition some territory in the West, in particular the region of the Saar, has actually, although again with doubtful legality, been detached from Germany.

Present German *de facto* territory thus has shrunk to about the smallest in its entire history. Between the two world wars Germany still comprised over 180,000 square miles, somewhat more than California. Today it comprises 136,000 square miles (about the size of Montana), divided between Eastern and Western Germany in the relation of about one to two. Within this rump Germany, however, there live as many people—about 70 million—as in-

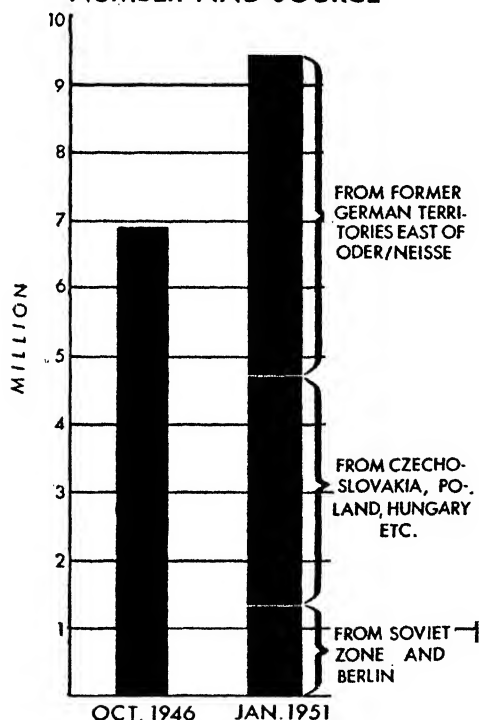
habited the former, larger Germany. This surprising fact is due to the westward shift not only of Germany's boundaries but also of its population. Most Germans formerly living in the detached territories of the East, as well as the ethnically German populations of countries such as Czechoslovakia, Poland, and Hungary, were forced into rump Germany as expellees,

#### COMMERCIAL POSITION AND RESOURCES

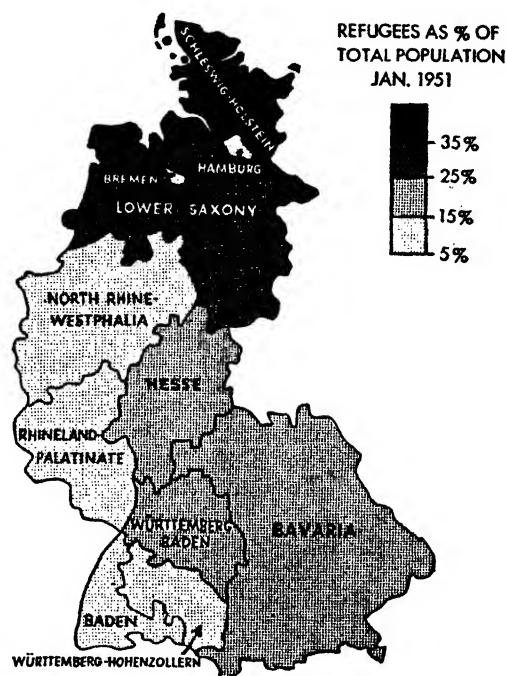
Geography has had a profound impact on German economic and political developments. When the main trade lanes went through central Europe, Germany's location and system of rivers favored its economic development; but when the trade lanes shifted to the Atlantic during the age of overseas discoveries, Germany

### REFUGEES AND EXPELLEES (Federal Republic of Germany)

#### NUMBER AND SOURCE



#### DISTRIBUTION



almost 8 million now living in Western Germany alone. Their integration into German economy and society constitutes one of the foremost problems now facing the Germans. In Western Germany, moreover, there is a continual influx of refugees from the Soviet Zone and Berlin, amounting, by 1951, to altogether one and a half million. Thus, in contrast to Britain's and France's less than 50 million inhabitants, there is still a solid bloc of 70 million Germans in the heart of Europe; 50 millions of them live in Western Germany (including the Western sectors of Berlin), about 20 million in the East (the Soviet Zone plus the Soviet sector of Berlin).

was left stranded in what became a backward area. This retarded the development of a German middle class, with corresponding political consequences. Then came the industrial age, enabling Germany to become the big workshop for industrially less developed Eastern and Southeastern regions which it bordered and which exchanged their agricultural surpluses for German industrial products. Germany's industrialization was rendered possible by one major resource, coal, found in abundance in what became Germany's industrial heart, the valley of the river Ruhr (tributary of the Rhine in Western Germany). But like Britain, and unlike the United States and the Soviet Union,

Germany has been nonself-sufficient in most other basic resources, including agricultural products. While the climate is temperate and the landscape is as beautiful as that of France, the soil in the main is less fertile. Even at a time when Germany still possessed the area which was its breadbasket, the Eastern provinces, it had to import food. In addition, it had to import such basic industrial raw materials as rubber, cotton, oil, and ores. For a while, it is true, the possession of Lorraine (from 1871 to 1918) enabled it to build its heavy industry on the availability within German frontiers of both iron ore (from Lorraine) and coal (in Ruhr, Saar, and Upper Silesia). Steel mills arose where the coal was dug, and many diversified industries (machinery, electrical, chemical, textile) were developed around Berlin and in such regions as the upper Rhine and Saxony. Germany's compactness, the absence of high mountain barriers, and its rich river system made possible a dense system of transportation by rail, water (canals connecting the main rivers), and highway.

But for Germany, as for Britain, it was, and still more is, "export or die." Today, in this respect, the situation is serious indeed. The loss of the territories east of the Oder and Neisse implies the loss of the only region that had yielded a food surplus for the remainder of Germany. This territory, which prior to World War II held 14 per cent of the German population, had produced one-third of the main staple food, grain (especially rye) and potatoes, and a somewhat lesser percentage of sugar, meat, fat, and eggs. Today, while Germany does not have the food it does have the people of these territories, and has to feed them out of the remaining resources. While Germany, prior to World War II, produced over 80 per cent of its food requirements, West Germany today is only 60 per cent self-sufficient. Furthermore, dwindling trade between Eastern and Western Europe (and between the Eastern and Western halves of Germany itself) deprives West Germany and its industry of its most natural market. While industry in East Germany may be increasingly integrated with the economy of the Soviet bloc, for which it may well become a main workshop, West Germany will have to

compete for markets with the main Western powers (such as Britain), unless German unity and East-West trade are restored.

#### STRATEGIC POSITION AND SECTIONALISM

Politically, Germany's central location and open boundaries have been both an opportunity and a temptation. In contrast to the protected island position of England, Germany has been either battleground for others—when weak—or the center from which to expand and conquer—when strong. As with France and other Continental countries, open land frontiers have meant the necessity of defense; this necessity has led to the establishment of the modern state, with its standing armies and permanent bureaucracies. France, however, has many "natural boundaries" (above, p. 234), while Germany has only the sea in the North and the Alps in the South. All other boundaries have been ill-defined and ever-changing. This absence of "natural frontiers" has favored either foreign invasions or aggressive nationalism. The boundaries set by the German national anthem—"from the Maas [in Belgium] unto the Memel [in Lithuania], from the Etsch [Adige, in South Tirol] up to the Belt [the Danish Straits]"—could rightly appear as provocative to the non-German countries and nationalities concerned. Traditionally, German expansion was directed eastward (*Drang nach Osten*), but, as the wars of 1870, 1914, and 1939 showed, this did not preclude aggression toward the West.

If there are geographical causes of German expansionist nationalism, geography has also something to do with the opposite political phenomenon, a deeply divisive sectionalism. The geography of Germany is diversified; there are even more regional variations than in France. Between the plains in the North and the Alps in the extreme South, more than half of German territory is uplands, crisscrossed by rivers, valleys, hills, and mountain ranges. In the absence of early political unification (such as France was blessed with) regional variation favored a German tendency to divide into numerous sub-nationalities (*Stämme*), which in the course of history developed their own national consciousness and political ambitions. "Particularism" (as the Germans call this kind of sec-



tionalism) has been as important as nationalism, and its existence has given rise to the recurring political problem of German federalism, the problem of how to create *e pluribus unum*. It is a problem different in nature from that of other federal systems such as Soviet or American federalism. In the Soviet Union federalism has meant the attempt to unify over one hundred different nationalities without dominance by one nationality group (above, p. 434 ff). In the United States, once the initial sectionalism of the founding states was overcome, federalism in the main came to be a problem of resolving divergent, frequently vested, economic interests, added to which was the peculiar race-problem in the South. In Germany, while similar interests also play a role, the problem arises chiefly from the traditional fragmentation of one nation into sub-groups. While the large size of the United States makes a federal system appear natural, sectionalism in the narrow confines of Germany easily assumes the character of pettiness.

### The People: Nationality

#### "VOLK" AND RACE

As a nation the Germans are perhaps more difficult to define than any other people. The German term for nation, *Volks*, itself is utterly vague. A pre-Nazi German standard encyclopedia claimed that 113 million of the world's people belonged to the German *Volks*. On the basis of what? Race was made the criterion by the Nazis and other racist Germans. But it is doubtful whether there are genuine European races in the sense of definite sub-races of the Caucasian race, distinguished by origin and physical characteristics. Hitler's "Aryan" or "Nordic" race is a myth. Assuming that Celts, Slavs, and Germanic groups somehow indicate groups of common descent, today's Germans are, of course, mostly "Germanic," with some Celtic admixture in the West, and considerable Slavic strains in the East. Physically Germans are much less uniform than the usual stereotype has it. The blond, tall, blue-eyed type, more prevalent than the shorter, dark-haired, brown- or gray-eyed type in areas of Northwestern Germany, yields to the latter in many other regions of the country. Altogether, there are

as many variations among Germans as among the French, or even more.

One problem, which German racialists turned into a race problem, hardly exists any longer: that of the German Jews. Prior to Hitler they comprised about one per cent of the population (600,000) and, because of their tendency to adapt themselves through intermarriage as well as in customs and habits, they were on the way toward extinction by merger. The Nazis, considering them a dangerous group of alien race, caused their extinction through enforced emigration and physical extermination. Today only a few thousand survive in Germany.

#### "VOLK" AND LANGUAGE

If not by race, are Germans then defined by language? Again we run into difficulties. For, while almost all inhabitants of what is Germany today speak one common language, not all German-speaking people in the world consider themselves Germans. Most German-speaking Swiss or Austrians, for example, do not consider themselves Germans in any more than a vague sense of cultural affinity. This merely reflects a historical process, what German nationalists regret as "loss of German *Volks* substance." Of the Germanic tribes that spread over Europe (and part of North Africa) at the times of Migration (in the fifth and sixth centuries A.D.), many founded new nations (such as England) while others disappeared in non-Germanic populations. Those that remained in "Germany," after the disintegration of Charlemagne's empire in the ninth century, started a countermovement toward the East where, as far as the Elbe river, Slavs had settled. They colonized goodly portions of Eastern and South-eastern Europe, generally, however, settling in mixture with the non-German populations of these areas. Thus, in what we today call Poland or Bohemia or the Baltic countries, Germans emerged as a ruling minority, with the original inhabitants as subject populations. In West and South, on the other hand, a different development took place. Groups that were originally German, such as the Franks (who founded France), the Swiss, and the Dutch, separated culturally and politically from Germany, while the German character of others, e.g., the Austrians or Burgundians (inhabitants of what now

is the border belt stretching from Alsace-Lorraine, and Luxembourg into Belgium) became uncertain. Their territories became areas of conflict, with Germany at times claiming and incorporating them, and at other times being forced to recede. Thus France calls the Rhine its "natural boundary," while Germany locates it in the interior of the country, not on the border.

Thus, in contrast to France and Britain, where early political unification *created* the nation, and to Italy, where political unification came late but the language was an effective definition, Germans could never agree as to what constituted the German *Volk*. This uncertainty contributed to the difficulty of political unification, and when unification was finally obtained in 1871, it was on the basis of what was called the "Little Germany" solution, which left outside the *Reich* (the name of the political unit, Germany) many who considered themselves or were considered by *Reich* Germans to be national or racial Germans. No identity of *Volk* and *Reich* was ever achieved. On the other hand, the newly established *Reich* contained non-German national minorities, such as French in Alsace-Lorraine, Poles in the Eastern provinces, and Danes in northern Schleswig, and this created serious internal and foreign political problems. Between the two world wars, following the cession of Alsace-Lorraine to France and Eastern territories to Poland, few national minorities remained inside Germany, and in Germany today there are hardly any, except for some Danes in Schleswig.

#### POPULATION TODAY

Thus Germans may be defined as those German-speaking people who do not claim allegiance to another nation. Since there are 70 million of them, Germany is the most populous nation in Europe outside of Russia. In its population trends Germany has shown the characteristic effects of industrialization, urbanization, and modern hygiene. While in 1800 about 25 million inhabitants of what later became Germany faced 27 million Frenchmen, in 1900 the relation was 56 million to 39, a deeply disturbing fact to French statesmen such as Clemenceau, who spoke of "20 million Germans too many." Yet, even after the territorial losses in-

curred through World War I, Germany did not have the population density of Britain or Belgium. Today, despite the loss of over three million lives in World War II, there are, because of the influx of expellees and refugees, about 500 persons per square mile, or about the same as in Britain. Expellees are mostly concentrated in Western Germany, but unevenly. In the regions bordering on the Iron Curtain (Schleswig-Holstein, Lower Saxony, Bavaria) they constitute about or over one-third of the population, while farther to the West, and especially in the industrial regions, they are less numerous. Their relative strength has important consequences not only for the economy but also for political developments; e.g., it divides the present states of Western Germany into "have" and "have not" states, a division now far more vital than *Stämme*, or party-political, or religious differentiations. Present plans envisage compelling the more favored regions to accept refugees from the disfavored ones. War and subsequent upheavals had an even worse impact on German age and sex distribution. There were, in 1946, about 1,300 women for every 1,000 men; in the age group of 25-45, 1,640 for every 1,000. By 1950, because of the return of prisoners of war, the disproportion was somewhat reduced, but Germany today is still a nation where women and older people predominate.

Within the German nation, as has been mentioned, the component sub-groups are extremely diversified. Such major groups as Franks, Saxons, Swabians, and so forth, tend to divide into an indefinite number of minute sub-groups, all, as one observer puts it, "painfully conscious of their regional diversity." Even German dialects differ to such an extent that a German from the North, speaking "Low German," and a South German, speaking the Bavarian dialect, can hardly understand each other. The common bond is the written language, which was established by Luther's translation of the Bible. Thus Germans, though religiously split because of Luther, still owe him whatever linguistic uniformity exists—a uniformity that has substantially contributed to national coherence.

Not only in spoken language but also culturally, in customs and habits, and temperamentally, Germans differ widely. The contrast even

of neighboring groups, such as the almost Latin, light-hearted, and easy-going Rhinelanders with the heavy, stolid, brooding Westphalians, is striking. But the boundaries of the major German *Stämme* rarely coincide with those of the traditional political units in Germany (such as Prussia, Bavaria, Württemberg). While the former were medieval in origin, the latter were established through subsequent dynastic rule, conquest, and marriage. Contrary to common opinion, the "typical" Prussian was found in some *parts* of Prussia only, and even the typical Bavarian only in south Bavaria (in the remainder of which there are Franks and Swabians). Now the picture is complicated by the addition to the indigenous populations of the expellees and refugees, themselves divided into Silesians, East Prussians, and so forth. This makes for friction. Yet like urbanization it may eventually result in greater uniformity through mixture.

### **The People: Religion**

The impact of religious denominationalism on German society and politics has been very strong. While the other major nations of Europe are denominationally more or less uniform, religion splits the German nation. This split has been more divisive in its effects than, say, in the United States, because it was accentuated by the territorial split of Germany into many principalities during the Reformation and Counter Reformation. At that time the various rulers of the different German principalities independently determined whether their subjects should adopt Protestantism or remain Catholic, and as a result the conflict between the two religions went through the heart of Germany. Even today, after many shifts of population, this division is still largely territorial, with the North and East predominantly Protestant, and the South and West Catholic. In the Southwest, however, early subdivisions still confuse religious lines. In Württemberg and Hesse, for example, there are more Protestants than Catholics, and even in strongly Catholic Bavaria there are some predominantly Protestant areas. In the unified Reich of 1871, a majority of Protestants (divided into a larger Lutheran and a smaller "reformed," or Cal-

vinist, group) faced a strong Catholic minority in the relation of two to one. Today, the loss of the Eastern territories and the split of the remainder into East and West has left West Germany with the two denominations in the relation of about one to one, while Eastern Germany is almost entirely Protestant.

This religion division has seriously affected German society and politics because of the intimate connection between church and state. In some Catholic regions, prior to the nineteenth century, high church dignitaries (bishops or archbishops) were often, simultaneously, the worldly rulers of corresponding "church principalities." And regions governed by Catholic lay rulers also evolved special traits over the centuries. In Protestant territorial states individual rulers became the highest church authorities. Luther himself agreed to the state's having authority over church affairs, in return for the princes' protection of the "freedom of a Christian." From that time forward this spiritual freedom of the Protestant went hand in hand with his subjection to worldly authority. Church organization became almost undistinguishable from state organization; the Lutheran pastor became one of the persons representing state authority in the eye of the ordinary citizen, the more so since he received his salary through state subsidies granted to the churches. Thus Protestantism became a pillar of secular power, which thrived, as in Tsarist Russia, on this alliance of throne and altar. The basically conservative influence of Protestantism in Germany was strengthened by the absence of Nonconformists and, consequently, of any "Nonconformist conscience," a force so important in England (above, pp. 8-9). The German partnership of church and state left antiauthoritarian groups, middle class or labor, liberal or socialist, without any considerable religious backing. Many were thus driven into antireligious attitudes. Marx, a German, considered religion to be the "opiate of the people," a mere ideology to keep the masses subservient to their masters. Many German non-Marxians came to think similarly. Germans divided into (largely conservative) church-goers and (largely socialist or liberal) non-believers.

The Catholic church, because of its own authoritarian structure and ideology, was no more

favorable than Protestantism to antiauthoritarian tendencies. After 1871, to be sure, it was driven, whenever its special interests were threatened, to oppose the Prussian-dominated and thus basically Protestant new German state. Being in a minority, concentrated in certain regions, it developed what came to be known as "political Catholicism": a party (the "Center Party") to defend its interests, a press, and Christian trade unions. To retain its hold over the Catholic population the clergy had to become politically active. Even today, Catholics on election Sundays are advised in the sermon how to cast their vote. Primary education in Germany is largely denominational in character, although given in public schools (which divide into those of Catholic character, with Catholic teachers, textbooks, and spirit, and of Protestant character). Catholicism has had to contend for the maintenance of these schools. Finally, the churches, Catholic as well as Protestant, have always depended on state subsidies.

For these various reasons, Catholicism has had as much interest as Protestantism in remaining allied with the ruling powers of the state. It has collaborated with any government, Hohenzollern or Weimar, which did not threaten its specific interests and prerogatives. Its well-organized and energetic participation in politics has frequently caused Protestants to be suspicious of a pernicious, "ultra-montane" (Vatican-directed) influence of Catholicism over internal German affairs. There is little evidence that the Vatican ever tried to direct the internal policies of German Catholicism, but the suspicion at times exacerbated the relations between the denominations. Catholics, on their part, often suspected Protestants of discriminating against the Catholic minority, e.g., in personnel policies. Today, with a predominantly Catholic party (the Christian Democratic Union, or CDU) as the main government party in Western Germany and with a Catholic as Chancellor the shoe is on the other foot, and there are Protestant charges of clericalism. Anxious and frequently petty insistence on "parity" in everything between Protestants and Catholics has been the result of this mutual suspicion. Often, as in the Rhineland, religious division has at least partially been class division, with the "masses" Catholic

and the rulers, in particular the officials imported from other regions of Prussia, Protestant, and this, again, has widened the gap between the groups.

Since both the Communist and the Nazi types of totalitarianism, in tenets as well as policies, are fundamentally un-Christian, both of the major churches in Germany have been, and are, in the forefront of the antitotalitarian struggle. Yet their basic conservatism cannot be gainsaid: even such outstanding antitotalitarian leaders and groups as Pastor Niemöller and his Confessional Church were anything but liberal or pro-democratic. Only minor religious groups have ever backed socialism, and the progressive, liberal-democratic tendencies so characteristic of American Protestantism have been almost wholly absent in Germany. Thus the hold of Protestantism over large segments of the population, especially in the cities, became tenuous or only nominal. To a lesser degree this has also been true of Catholicism, although Catholics have had the advantage of being a more cohesive minority and of being aided by the advocacy and promotion of social reform on the part of important Catholic groups. Thus, because of their conservatism, both churches have added to the number of those in Germany who oppose religious influence over social and political life.

### *The People: Class Structure*

To present a clear picture of present German society is as desperate a venture as to define the present political status of the nation. The East and the West of Germany are far apart socially. The Soviet Zone assumes increasingly the features of a Soviet satellite, which in its social structure is more and more patterned after that of the Soviet Union itself. Western Germany on the surface still presents the familiar pattern of groups and institutions which we know in America, Britain, and France. But underneath new forces are remolding the old structure, which, even traditionally, represented significant deviations from the Western type of society.

#### **EAST GERMAN SOCIETY**

What strikes the observer of the Eastern Zone first of all is not so much the fact that radical

social changes have taken place since 1945, but that these changes are the result of the simple *fiat* of one political ruling group, the leadership of the Socialist Unity Party, or SED. This, of course, is Communist control, exercised by German Communist leaders under the guidance of Soviet Communists. What this group decides is what takes place. The structure of society, the existence, disappearance, strength, weakness of social groups or classes, the relations between any of them, all this no longer is the result of the free play of social forces but the result of the program and policies of the group in political control. This is the essence of totalitarianism. But while Nazi totalitarianism, in the main, did not revamp the entire social structure, but left the main class lines undisturbed, Communist totalitarianism has undertaken a radical transformation.

The old feudal class of noble landowners (the Prussian *Junkers*), which had its main strength in the East of Germany, has been wiped out, and the property-owning middle class of industrialists (for there is in the Soviet Zone a good deal of industry, around Berlin, in Saxony), bigger and smaller businessmen, shopkeepers, and so forth, is disappearing through dispossession. There has appeared a new class of smallholders, but it too is in danger of being destroyed through collectivization of agriculture. Although the new peasant today still owns his parcel of land, he is economically and politically under the complete control of the SED. The workers in the cities, now preponderantly employed in nationalized enterprises (partly owned by German authorities, partly by Soviet-Russian "corporations"), have equally scant independence of action. Deprived of the weapon of the strike, with no free unions available for collective bargaining, they have to accept what the regime grants them. They are, of course, a major source for staffing leadership positions, but the large majority of them remain subservient. The same holds for the increasing number of people employed as clerical, technical, and administrative personnel in public enterprises, state administration, and party organizations. This new type of middle class has absorbed the large proportion of formerly independent middle-class people, such as businessmen, artisans, and members of the professions. Indicative of this transforma-

tion is the fact that in 1939 one-third of the population of what is now Eastern Germany was self-employed, whereas today—despite the larger number of self-employed farmers—less than one-fifth are self-employed.

This ever increasing managerial class of publicly employed white-collar employees is affiliated with the new social and political elite, with which its higher levels merge. But few members of this class share any of the elite's political power. This power is jealously guarded by those in key positions in Party (SED), in administration, and in industry; they form a closed group, a group constantly purged of political unrelia-bles, forever anxious to prove itself to its foreign masters, in ever closer control of all other social groups. Instrumental for the exercise of this control are the machinery of terror (e.g., secret police), the machinery of indoctrination (e.g., press, education), a system of incentives (e.g., piece wages, work competitions), and the organization of the major groups of the population in SED-controlled, so-called "mass organizations" (e.g., FDGB, or Free Trade Union Federation; FDJ, or Free German Youth; Peasants Mutual Aid Associations). While the terms "free" and "democratic" abound in Eastern Germany, its society is manipulated.

#### WEST GERMAN SOCIETY

In Western Germany no such radical transformation of society has occurred. There is still the familiar picture of workers and industrialists, traders and peasants, all competing for social and political influence through established institutions and channels, through trade unions, professional associations, organizations of businessmen, political parties, and above all through the bureaucracy. But this stratification has become somewhat unreal. Recent developments have rendered the old structure more and more brittle and out-of-date. First of all there are the millions of expellees and refugees, who constitute close to 20 per cent of the total population. While in Eastern Germany expellees were readily absorbed during the process of general social transformation, Western Germany, with its established society, has so far been unable, or unwilling, to assimilate the newcomers. The refugees themselves come from all imaginable strata (comprising former noblemen and landless agri-

cultural laborers, artisans, workers, businessmen, intellectuals and professionals); they are "crowded, badly housed, unemployed at a higher rate than the natives, discriminated against, resentful, largely unassimilated, always longing to return whence they came."<sup>1</sup> Since the bombed-out cities of the West offered insufficient housing, the majority of expellees were dumped into the country. There, in villages and small towns, economic opportunities are even poorer than in the cities, and close contact with a hostile indigenous population, often alien to the newcomers in tradition, customs, dialect, has made for ever increasing friction. These people thus constitute an ever-present class of pariahs, a kind of Fifth Estate without share in established society. "Two nations," in Disraeli's words, live side by side, but they are no longer the traditional rich and poor. The expellees consider themselves as "have-not" outcasts in an environment where all others, including the traditional proletariat, are lucky "haves."

In that, however, they are somewhat mistaken. Among the "have-nots" must be included all those who, through the vagaries of wartime and post-wartime, lost out in what was basically an accidental way: One businessman or house-owner may have lost his property through bombing, while his neighbor or competitor kept his; one German may have had property in the Eastern territories or the Soviet Zone, out of reach now or confiscated, while another still has his investment because it is located in West Germany. Some lost jobs or possessions because of former Nazi connection; others, as deeply or more deeply incriminated, escaped denazification. By and large, however, the effects of denazification, especially in the economic field, have been transitory, and the number of former Nazis permanently deprived of holdings or positions is infinitesimal. The old business oligarchy, in particular, is still there.<sup>2</sup> Much more devastating was the impact of the currency inflation which hit Germany from 1945 to 1948. Those who lost their savings, especially small savings, through inflation have joined the ranks of the new "have-nots," and nothing much has

as yet been done for them. Such a situation is obviously full of political dynamite. Germans are reminded rather ominously of developments in the twenties and early thirties, when another group, comprising large parts of the lower middle class, was economically victimized but refused to join forces with the established proletariat; it became the easy prey of Nazi demagoguery. Here may be the roots of a neo-Nazism, of which, since 1950, signs have increasingly appeared.

#### GERMAN INDUSTRIALISM

These transformations have taken place in a society that was once particularly noted for its continuity, even rigidity. No revolutionary change, as in France, had ever interrupted the steady development of German society. Until about a hundred years ago, in contrast with Britain and France, Germany had been a predominantly agrarian country. It had hardly participated in the developments of commerce and trade which had flourished in the Western countries since the beginning of the modern age. Up to about 1850 the typical German social relation was still the feudal or half-feudal one of master and serf, of a noble landowner and an economically and socially dependent peasant; in the cities handicraft, controlled by closed guilds, prevailed.

Then Germany became rapidly and thoroughly industrialized. As late as 1880, half of its gainfully employed people were in agriculture; after World War I, workers comprised almost half of those gainfully employed, while those in agriculture totaled less than one-third. A tremendous migration from country to city took place in a brief period of time. New industrial centers developed rapidly. In 1870 Germany had 8 cities with more than 100,000 inhabitants; in 1937 there were 53 of them, containing about one-third of the total population, and West Germany in 1950 had 46, with 13 million inhabitants. In West Germany today only 22.2 per cent of those gainfully employed work on the land; 43.4 per cent work in industry proper, 15 per cent in commerce and transportation. Of all these only 15.4 per cent are self-employed; 51.6 per cent are workers, and 20 per cent are white-collar employees and officials. In addition, 11.5 per cent are beneficiaries of pensions, rents, and

<sup>1</sup> J. P. C. Carey, *Political Organization of the Refugees and Expellees in West Germany*, *Political Science Quarterly*, June 1951, p. 191.

<sup>2</sup> On details of denazification see below, ch. 3.



so forth. Germany is a nation of people depending on "security" (job security or security as receivers of pensions) rather than on "private initiative," economically and socially.

Germany never knew—as did France or America—a society with a large, economically independent class of farmers and bourgeoisie. The tardy rise of German capitalism meant a jump from precapitalistic conditions into a mature or late capitalism, whose features were concentration of capital in giant corporations and combines, interlocked through cartel agreements. Small or middle-sized business establishments had little chance. The currency inflation of the early twenties, the depression of the early thirties, and Hitler's "total war" damaged them even more. In addition, members of the lower classes in Germany never had much opportunity to rise socially. Germany always has been characterized by slight social mobility, less, certainly, than in the United States, which was industrialized at the same time and with the same thoroughness. The Marxian terms "bourgeoisie" and "proletariat," therefore, perhaps better fitted Germany than other industrialized countries: Once born into either class one stayed there, and strong class-consciousness permeated any relationships between classes.

#### A SOCIETY OF STATUS AND BUREAUCRATIC RULE

Such feeling for status and separateness is still characteristic of present-day Germany (at least in the West). The worker has his pride in his institutions—his trade union, his party, his adult educational organizations, where he tries to make up for the higher education denied to him as a child. By such education the member of the middle class is generally distinguished not only from the proletariat but, within his own class, in multitudinous and minute ways, from other middle-class members, whose higher or lower ranks are indicated by a wealth of titles, indications of status or occupation, and similar outward signs of stratification through social prestige. In all this, he patterns his behavior on that of a group which is still largely feudal in outlook if not in origin: the officialdom.

For while Germany during the last 70 years changed from feudalism to capitalism economically, she has remained largely feudal socially.

This has happened, not because the nobility, backed by the courts and the Protestant churches, maintained a key position in state and government until 1918, and even afterwards remained influential, but because the spirit of feudalism remained the prevailing one in the caste of expert officials who ran, and run, the country administratively. Traditionally these officials had been drawn from the nobility; and even when, later, members of the middle classes were gradually added to its ranks the official caste, instead of becoming imbued with the "bourgeois" spirit (as happened in Britain to a large extent), retained its old mentality, with its concern for prestige and distinctions of status, with its arrogance and exclusiveness, its militaristic and conservative-authoritarian ideals. This class became the model for other strata of the population. Its mentality pervaded large parts of the middle class, and to some extent even the workers class. In contrast to English and, above all, American society, participation in state power, rather than income or wealth, is the main yardstick of one's social status in Germany. This ideal, expressed with some resignation, is reflected in the German saying: "What is the German's yearning? To be seated behind a public office window. What is the German's destiny? To be standing in line in front of one."

In this way, groups in power have maintained their grip on German society. But it was, and is, the corresponding mental attitude of most Germans, rather than the power positions of any one group, that has proved a severe handicap to genuine democratic development in that country.

#### *The People: National Character*

Seen from within, a nation exhibits a bewildering number of traits. Looked at from without, however, especially in contrast with other nations, a nation often shows a surprisingly individual character. Of course one has to be careful not to exaggerate national peculiarities, or to consider them as immutable. National characteristics have changed. The English, now generally thought of as "stolid," "phlegmatic," "muddling through," were regarded in the seventeenth century as turbulent and excitable. This reputation they lost to the French in the eight-



eenth century, at a time when Germans acquired the reputation of being the "nation of poets and thinkers," living politically in the clouds. One hundred years later the Germans had become "aggressors by nature," or at least people interested mainly in material goods and achievements, efficiency, power, and glory.

If the Germans changed radically during the nineteenth century, one reason may be that they achieved national unity and power through "blood and iron" rather than as result of a free popular movement. More important, perhaps, are the long-standing traits which have distinguished the Germans in social and political relations. These traits are aptly described in two statements, made more than a hundred years apart, one by a French authoress observing the Germany of the "poets and thinkers" around 1800, the other by a German professor writing after the first world war. Said Madame de Staël:

The Germans . . . unite the greatest boldness in thought with the most submissive of characters. . . . With them obedience is not servility but regularity. They scrupulously execute all orders received as though every order were a duty. . . . Enlightened Germans vigorously dispute in the speculative sphere, permitting no hindrance there; but they quite willingly yield all of real life to the powers that be.

Said Werner Sombart, famous "*political economist*" (as Germans call their economists):

The dearest heritage which the greatest and best of our people have left us intellectuals is their unpolitical spirit, which almost seemed to have been lost. Once more to foster it in the great desert into which our material culture has banished us, seems to me well worth the sweat of noble men. Let us again live more in Goethe. That is what we sorely need.

This criticism of "politics" points up political ineptitude. Sombart's reference to Goethe is significant. Goethe, in a moment of dismay, went so far as to say that Germans, since they did not know how to arrange their public affairs, might better be scattered, like Jews, among the other nations. But Goethe himself exhibited one of the traits mentioned by Madame de Staël as typically German: Granting that the French Revolution had remedied certain injustices, he yet re-

jected it, for, as he put it, he preferred order coupled with injustice to a justice bought at the price of order.

#### WORSHIP OF ORDER AND RULES

German history, a history of disunity and disorder, impressed this high valuation of order on the Germans. It showed them the political danger in endless strife among *Stämme*, social groups, or religions. When Bismarck's strong-arm methods finally overcame political disorder, the ideal of order became coupled with that of authority. An ordered but free society seems a contradiction in terms to most Germans. An ordered society must be established and ruled by those who "know best," rather than by discussion and argument on the part of those who do not: "Those who know shall rule, not ignorance and the vanity of 'knowing it always better'" (Hegel). For every foreseeable situation there should be a rule, duly set by some authority with power and jurisdiction to enforce it, and obeyed faithfully by the subjects. The German has little ability to deal with his fellow human beings on the basis of common sense; therefore, he prefers to deal with people under legal rules; they then become objects of regulations. This peculiarly German law-mindedness, or rather rule-mindedness, is highlighted by the—probably apocryphal—story related when the Allies marched into Germany: A small-town German, asked why the Germans had not yet thrown out their local Nazi bosses, countered with the surprised question, "But, are we permitted to do so?" Unused to taking the initiative to settle a public problem in an unregulated situation, the German instinctively looks for somebody to do it for him. This authority need not necessarily be legitimate or traditional. It was surprisingly easy for the Allies to command obedience of Germans and restore order once they had laid down regulations in due form. But it had to be done by them. Even Germans joining a revolutionary movement or party usually expect the leaders to tell them what to do.

This does not mean that the German is merely sheeplike. What makes German authoritarianism so difficult to understand is that it occurs, not in a people who, like the Russians, were hardly awake politically, but in a highly edu-

cated and—outside the political realm—highly sophisticated people. There is in Germany as much discussion of public affairs, grumbling about abuses, complaint against officials and authorities as anywhere else. The German is often even more impatient and excitable than others. But when it comes to standing up and defending his rights against the authorities, the German with “civil courage” (as Bismarck called it) is the exception. That German is not a citizen who feels the support of law and a just cause but an isolated “little man” who faces the state in all its majesty. This is why democratic institutions (which have abounded in Germany) are so rarely instilled with democratic spirit. Certain court cases, for example, are supposed to be judged jointly by “lay assessors” and a state-appointed judge; but the assessors are usually overawed by the learned and impressive official. Likewise, the elected deputy of the people may feel small and unworthy when he tries to talk over a bill with the expert official.

#### BETWEEN AUTHORITY AND ANARCHY

This does not imply that all Germans exhibit the same authoritarian mentality. Just the opposite. The German has often been torn between the extremes of authoritarianism and anarchism. There is, for example, the typically German figure of Michael Kohlhaas, Heinrich von Kleist's hero, who in pursuing a claim defends the principle of individual justice to the point of violence, insurrection, and eventual self-destruction. Likewise, in their relation to the world, the Germans, as a nation, have been overbearing and egocentric, on the one hand, and on the other hand, cosmopolitan to the point of being ready to lose themselves in the world. German nationalism has been coupled with an inclination toward self-pity, toward assuming too readily that injustice has been done to Germany; while injustice inflicted on others is less readily acknowledged or too readily forgotten. This does not exclude an inclination to absorb foreign influence; although the foreigner is then often claimed for Germany. To many Germans, for example, Shakespeare is “German” rather than British—the German standard translation is frequently considered better than the original! Rembrandt is “Germanic” in spirit. The spirit-

ual fathers of Nazism were a Frenchman, Count Gobineau, and an Englishman, H. S. Chamberlain, but the Nazis encountered no more difficulty in making them “honorary Germans” than they did in making their Japanese allies “honorary Aryans.” All in all, the German shows a mixture of intellectual imperialism and provincialism. But this same German “openness toward the world” also produced its great genuine “citizens of the world,” its Goethe, its Kant.

Thus torn between extremes, the German has not found the golden mean of a free but ordered society. He wants everything or nothing. He is unable to recognize the *relative* value of argument and compromise, discussion and agreement, civil rights and liberties, individual and group initiative. No German Dreyfus Affair (above, p. 257) ever established the primacy of individual liberty over *raison d'Etat*. Thus in Germany democratic attitudes failed to assume the character of naturalness, of spontaneity, that they have to some extent gained in the West. Here is the historic guilt of Germany's elite, its educated middle class, its intelligentsia: By keeping virtuously aloof from active participation in “lower” political affairs, they actually prepared the way for the rule of the power-mad man whom they then worshiped and followed in what their greatest living author, Thomas Mann, has called “hellish drunkenness.” Twice this inclination led their country into the abyss of defeat. Whether such experience will teach the present generation of Germans something, whether it will lead to a more lasting change in national character, remains to be seen. This is the problem of German “re-education,” which, in the last analysis, if it is to be successful, can only be self-education.

### III. GERMAN POLITICAL IDEAS

#### *The Importance of Political Ideas in Germany*

On the surface, German political thought looks like that of the main Western countries. We can distinguish conservatism, liberalism, socialism. But political ideas are fertile only where masses, groups, movements are in a position to give them effect. In Germany this has happened

only intermittently. For political action the impact of ideas on the ruling elite has by and large been more important than the political thought of the masses. Because the ordinary German was seldom allowed to put his ideas and ideals into practice, as political theorist he tended to become an extremist. Not allowed to be radical in action, the German tended to be so in the realm of thought. There is some similarity here between the German situation and that of Russian intellectuals under the Tsarist regime. Revolutions that other nations made in the realm of action, Germans performed in the realm of theory.

The lesser impact, in Germany, of political ideas on political action is also related to the absence of a great tradition of *political* thought, such as exists in Britain or France. German political thought, often cloistered and remote from the daily political scene, has been carried on, in the main, by philosophers and professors. It has thus easily assumed a metaphysical and abstract character. Great publicists and pamphleteers who, in the West, have utilized political theories as weapons in the political struggles of their times, have been conspicuously absent in Germany. Few Germans have had the sense of analytical criticism, psychological when referring to persons, social when referring to institutions, that exists in the Latin and Anglo-Saxon world. Exceptions, such as G. E. Lessing in the eighteenth, and Heinrich Heine and Friedrich Nietzsche in the nineteenth century, were suspect to the average German; their criticism appeared to him "merely negative." And even less refined and less critical types of thought had an uphill fight against the entrenched pattern of belief.

## German Liberalism

### EARLY LIBERALISM

In England all major schools of political thought are to some extent liberalist, and liberal ideas predominate in the important classes and parties. In France, too, liberal-democratic thought has been the strongest ideological force in the last two hundred years. There was a time in Germany too, toward the end of the eighteenth century, when an entire generation was

imbued with the ideals of the Enlightenment. German philosophers, like Kant and the young Fichte, poets like Schiller and Hölderlin, greeted the French Revolution with enthusiasm. One young German, Wilhelm von Humboldt (1767-1835), in 1792 wrote what the English historian, Gooch, has called the "German equivalent of *Mill On Liberty*." In his *Thoughts Concerning the Limits of State Action*, von Humboldt defined the state's legitimate action as narrowly as possible. The ideal is the harmonious development of the individual, and government's only legitimate function is the preservation of internal order and defense against foreign attack. While with von Humboldt the accent is on individual freedom, with Immanuel Kant (1724-1804) it is on ordered freedom under law: The individual should govern himself, by participating in the formulation of the general will of the community. In the realm of international relations Kant, in his *On Perpetual Peace* (1795), boldly proposed what at his time must have seemed utopian, a world federation of republican commonwealths. In his ideas on internal government he was more cautious, emphasizing the necessity of order and the citizen's duties toward society. Even more important for the development of subsequent German thought, however, was the emphasis in Kant's moral philosophy on man's categorical and rigorous duties under the moral law. The concept of moral duty later served Kantian philosophers (and the elite they influenced) to impress on Germans that obedience to the law meant the fulfillment of ethical postulates.

Kant's foremost philosophical disciple, J. G. Fichte (1762-1814), started out as an almost anarchistic follower of the principles of the French Revolution, but ended as an ultra-nationalist who proclaimed the unique historical "mission" of the German people, and as a champion of a planned economy and society in a strong welfare state. This surprising turn he shared with the majority of his compatriots, who, under the impact of the Reign of Terror and the Napoleonic wars and conquests, began to regard the philosophy of the Rights of Man as an alien ideology serving the French to deprive Germans of their freedom and independence. Thus, while French conservatives regard the Revolution as

"un-French" (above, p. 274), Germans came to reject its ideas as "un-German" because "French"!

#### LIBERALISM AND ROMANTICISM

Liberal-democratic ideas were still strong between 1815 and 1870 in the German movement for national unification in a free state; but they were largely imported from the West, and no original German liberal-democratic thinker arose. Instead, the peculiarly German contribution to the ideology of this liberal movement was Political Romanticism, an ideology which influenced many other movements, including authoritarian ones. In the liberal-national movement its main contribution was the idea of the nation as the natural collective in which men should live, and the idea that old-established "associations," "natural" groupings of people, should have prevalence over "artificial" institutions enforced from above. General romanticism is the reaction to rationalism. It rejects general rules and universal principles derived from reason, and worships instead the unique, that which distinguishes one phenomenon from the other and makes the world diversified. In Germany this romanticism, on the one hand, ended up in radical individualism which proclaimed the supremacy of the unique personality over everything else. In Max Stirner's (1806-1856) bold *The Individual and His Own* (1845) it led to an extreme and unadorned philosophy of egoism, while in Friedrich Nietzsche (1844-1900) it meant the glorification of the "will to power" of the strong individual who fights the state, "coldest of all monsters," and the slave-morality of the masses protected by the state.

Because of this extremism, individualist romanticism either remained politically ineffective (as in Stirner's case) or was exploited for its own, different end by the power politics of subsequent political movements (such as the Nazis' exploitation of Nietzsche's ideas). Political romanticism, on the other hand, insisting that uniqueness resides in collective entities, such as nationalities, rather than in individuals, became one of the main strands of German political thought. To an earlier representative of this thinking, J. G. von Herder (1744-1803), nationalities, with their peculiar character and historical mission, were still equal in their rich va-

riety, but to subsequent German nationalism the German nation assumed superiority over the others. Fichte has already been mentioned in this connection. In the German liberal-national movement the predominance of this thought meant that the "atomistic individualism" of the natural rights doctrine was rejected in favor of group supremacy over the individual. Germany was to be a democracy, but the individual was to be subordinated to the community and its will. The *Volksgeist* (spirit of the entire people or nation) was to be the regulative principle for ordering relations among groups, classes, and individuals in a nation.

#### THE "RECHTSSTAAT"

Although the liberal-national movement was defeated in 1848 and the influence of its ideas was weakened thereafter, those ideas did contribute to German constitutionalism and the putting into practice of the idea of the *Rechtsstaat*. German constitutionalism, unlike that in the West, did not mean the embodiment of popular sovereignty in formal, constitutional guarantees and processes, but a system under which the sovereign monarchical ruler allowed the people, organized in estates or classes, to participate in government within a circumscribed sphere, particularly in lawmaking. Similarly *Rechtsstaat* (a state where law prevails), rather than guaranteeing the political rights of the people, meant the guarantee of the citizen's legal security against executive arbitrariness. Its German promoters, such as Rudolf von Gneist (1816-1895), advocated not only a comprehensive system of legal rules to delimit the spheres of individual freedom and state action, but above all the establishment of independent courts to protect the citizen against governmental encroachment. The establishment of the authoritarian *Rechtsstaat*, in the nineteenth century, sealed the alliance between a German middle class which got legal security and a ruling group which retained political power.

#### GERMANY AND "LAISSEZ FAIRE"

As French revolutionary social and political ideas came to appear alien to Germans, so in the field of economy did English *laissez faire* liberalism, chiefly because the German fledgling industry needed protection. Therefore Friedrich

List (1789-1846) opposed Adam Smith and advocated state intervention for the protection of industries, protective tariffs, and a long-range political direction of economic developments. The idea of state intervention in economy, not only in favor of social reform, but also in favor of specific industries (and agriculture) through subsidies and high tariffs, and in favor of cartel arrangements and similar restrictions of free enterprise, remained strong in Germany long after German industry had outgrown its infancy. Here, too, liberalism remained ineffective unless adulterated with German statism. One of the intellectual fathers of Nazism, Arthur Moeller van den Bruck (1876-1925), expressed a more general German feeling when he said that a genuine German political movement might partake of all kinds of political ideas, even socialism and democracy, but not of liberalism; the latter was only for wealthy "have" nations which could afford such luxury.

### German Socialism

#### MARXISM AND GERMAN LABOR

The ideas of Karl Marx are described elsewhere in this book (above, pp. 424-26). After all, Marx and his friend and collaborator, Friedrich Engels (1820-1895), were Germans, and it is in the form of Marxism that socialism gained the allegiance of the German working class. That Marxism prevailed, rather than any kind of socialist reformism or gradualism of the Fabian type (above, pp. 38-39) was the result of the failure of the ruling groups in Germany to assimilate the rising industrial proletariat. It remained isolated, an outcast group. Consequently, a doctrine of complete negativism and hostility to all existing institutions which predicted a workers' kingdom to come, appealed to the workers more than did any movement of reform. A competing socialism, such as that of Ferdinand Lassalle (1825-1864), which expected the worker to be emancipated by the existing, though remodeled state, and emphasized the use of parliamentary devices, such as universal suffrage, for the attainment of this goal, had little appeal. Characteristically, Lassalle, at the time of Bismarck's conflict with the Prussian liberals, tried to find a working agreement with

that archconservative on the basis of their common enmity against the liberal bourgeoisie. To Marx, there was no place for genuine freedom in any historic society; real freedom would come only after the great "leap," the establishment of the classless society, where state and government would wither away. Any "general" theory of rights and freedoms in pre-socialist society was to him mere "ideology" and subterfuge to cover up class rule and vested interest.

Such negativism, coupled with the expectation of the secular Thousand-Year-Realm of socialism to come, remained characteristic of German socialism even when, toward the end of the nineteenth century, certain practical reforms and achievements gave German labor some stake in society, and even when, after 1918, German socialists obtained a share in government. Despite all theoretical discussions within German socialism, and despite the actual split of the movement into two major political factions (Social Democrats and Communists), its basic attitude remained doctrinaire. Marx's *Das Kapital*, or rather the *Communist Manifesto* (since *Das Kapital* is little read and less understood), has remained the bible, and any new policy, any adjustment to new situations, has to be made by interpreting this basic dogma rather than by giving up old ideas and accepting new ones. German socialism has been more dogmatic, less adaptable, and less pragmatic than French socialism, for example, even in its non-Communist version.

#### SOCIAL REFORM

If Marxism is the form in which socialism got hold of the German worker, other classes, including the ruling ones, were not uninfluenced by socialist ideas in a broader sense. After the foundation of the *Reich* in 1871, the ruling groups realized that if they were to avoid social revolution they had to grant social reform. Reform legislation was theoretically vindicated by a group of German economists and political scientists whom their *laissez faire* opponents jokingly called "chair-borne socialists" (*Kathedersozialisten*), insinuating that theirs was a kind of ivory-tower, professorial theorizing; but the "socialists of the chair" proved to be more realistic under German conditions than their dog-

matically liberal opponents, whose theories never found full realization in Germany. The advocates of social reform from above subsequently found allies in a "Christian socialism" which certain Catholic circles propagated on the basis of Pope Leo XIII's encyclical *Rerum novarum* (1891). Social reform thus started as something done *for* but not *by* the people, and to this day, despite participation of "Christian social" and even "socialist" parties in government, this is still the attitude of the major group which carried out reform, the bureaucracy.

### German Conservatism

#### LEGITIMISM

German conservatism existed in attitude long before its formulation in theory. Lutheran obedience to the powers that be became the main basis of Prussian authoritarianism. When the latter was increasingly attacked by nineteenth century liberalism and socialism, Friedrich Julius Stahl (1802-1861) fashioned its theoretical defense. Compared with Burke, or even with the French traditionalists (p. 273), Stahl is extreme. All authority derives from God, he declared, and the divine-right monarchy is bound by its own laws alone, not by any constitutions, institutions, or majorities. "Authority, not majority" was to be the right principle of legitimate government. But in this legitimism lay the main weakness of the theory. In a Germany still split into territorial monarchies it could not solve the problem of unification. It was hostile, or at best indifferent, to nationalism. Bismarck, when unifying Germany by the use of Prussian armed force against the other established monarchies, destroyed legitimism in practice. From then on, the major type of German conservatism was nationalist authoritarianism, born when national-liberalism dropped its liberalism, and legitimist conservatism its legitimism.

#### HEGEL

To this new conservatism the great German philosopher Georg Friedrich Hegel (1770-1831) contributed decisive ideas. His views on internal government and on foreign relations, and his general philosophy greatly influenced later German political ideas and attitudes. His views on

internal government may be called the conservative reaction to the ideas of the French Revolution. Hegel, in agreement with political romanticism, rejected all "absolute" principles, such as "natural rights" and "individual freedom." Such principles are to be thought of as historical only, incidents in a larger pattern of evolution. Evolution, it is true, according to Hegel means the unfolding of the "World Spirit" toward eventual freedom. But this freedom was not the freedom which liberal democrats or rationalist enlightenment philosophers had in mind. The principles of the French Revolution to Hegel embodied merely one extreme, opposed to the opposite extreme of absolute despotism. In Hegel's "dialectic" philosophy opposite extremes, forces and counterforces, always result in a subsequent "synthesis." He found the synthesis of absolute freedom and absolute despotism in an authoritarian *Rechtsstaat*, the Prussian state of his time. Hegel, it has been said, mistook the "Prussian Kingdom" for the "Heavenly Kingdom." In this state there reigns neither liberal "license" nor "reactionary" compulsion. It is the ordered rule of a hereditary monarchy, assisted, slightly, by estates of major classes, and chiefly, by the expert advice of a class of "servants of the state," the officials. Such a strong state regulates class and group conflicts of "civil society" in the interests of all. Only such a strong state can offer an abode to the highest manifestations of man, the arts, religion, philosophy.

The state, superior to any claims or rights of individuals or groups, was thus the highest political institution internally. To Hegel it was likewise so externally. Between the conflicting interests and claims of nations, only history, not any law or morality, passes judgment. Power, ultimately war, decides which nation, at a given period, shall be the "chosen instrument" of the World Spirit. Before its might all others legitimately perish.

This idea of the strong state, the final arbiter within and without, exercised a tremendous influence in a Germany unified by force and trying, for the first time in modern history, to play its role as a world power. In the new Empire of 1871, German jurists (such as Paul Laband, 1838-1918, and Georg Jellinek, 1851-1911) and German historians (such as Heinrich von Treitschke, 1834-1896) fashioned the theory of



the state as essentially "will" and "power," a legal and sociological "person." This concept, abstruse to the English or Americans, is as natural to a German as that of inalienable rights and freedoms of the individual is to an American. Hegelianism has been responsible for yet another tendency of German political thought: to put social and political ideas and phenomena into the larger context of historical development. Everything in human affairs, according to this view, is part of one great historical process which determines all particular developments. Marx, in this respect, was Hegel's direct descendant. This tendency toward a uniform *Weltanschauung*, a general "world view" or philosophy, where everything is judged under universal principles, easily leads to dogmatism. Different *Weltanschauungen* divide individuals, groups, parties, and movements more profoundly than do any conflicting interests. The German habit of fanatically supporting different "philosophies," added to the already existing religious, economic, and similar divisions, has proved perhaps the most serious handicap in the development of democracy, which calls for adjustment and compromise.

#### THE GERMAN IDEA OF THE STATE

Out of this pattern of thought there developed under the Empire what may be called the dominant ideology of its elite, an ideology that also spread to large groups of other classes, particularly the middle classes. This "German idea of the state"—as its adherents proudly called it—survived the Hohenzollern Empire and in two world wars was the basis for many Germans' conviction that theirs was the highest cause. According to this ideology, the type of state and society developed in Prussia-Germany is superior to Western liberal democracy. It is the state where "the best" rule with a sense of responsibility toward the many; where social welfare is assured through efficient government by the expert; where there is power enough to defend the community against threats from abroad and against egotistic interest groups as well as subversive forces within; where, finally, all this serves to stimulate the higher cultural values of the arts, science, and philosophy.

To the German, compared with this ideal of *Kulturstaat*, Western political systems appear

defective. In them, the community, a prey to individual or group egoism, is doomed to disintegrate. If parliament is supreme, the great national interests become matters for bargaining, and the factions in a nation of "hucksters"—as the Germans derisively named the English (Americans did not yet loom so large)—haggle over the affairs of state. If only rights and freedoms are emphasized, society must become the prisoner of terroristic factions. If majorities decide, decisions are likely to be wrong, since, as Schiller had said (and Germans never tired of repeating), "majority, that is nonsense; right reason has ever been known to only the few." But the abyss between Germany and the West was even deeper than such political contrasts indicated; it was, according to this ideology, the abyss between *Kultur* and "mere" civilization. Culture, in this ideology, is concerned with the higher values of religion and truth, arts and poetry, and the state as protector of these values; mere civilization is concerned only with the "lower" satisfaction of material wants, with technology and industry. German *Kultur* is idealistic; Western civilization utilitarian. But it can easily be seen that such emphasis on *Kultur* (at a time when Germany ceased to be culturally as creative as before and became more and more absorbed in industrial technology) might simply provide Germans with an alibi for not trying to achieve the level of behavior in social and political relationships that forms the essence of Western political civilization.

#### Recent Trends of German Political Thought

When the powerful state of the Hohenzollerns fell before Western strength, the traditional authoritarianism was temporarily discredited. But no new strong political philosophy took its place during the period of the Republic. Besides Marxism (in different forms), Catholic "Christian social" thought, and others, a large variety of often original, frequently extreme doctrines and systems emerged. Some tried to provide theoretical support for the new democracy. Thus Hugo Preuss (1860-1925), one of the makers of the Weimar Constitution, tried to fashion a kind of democratic pluralism out of Otto von Gierke's (1841-1921) *Genossenschafts-Theorie* (theory of associations, or cor-



porations): Political life, in this theory, is not to be regulated from above, but is to be self-regulated by existing, "organic" groups. The *Volksstaat* (popular government, a term this school preferred to the term democracy, with its "atomistic" connotation) was to be the result of the integration of such groupings of the people into one nation. Hans Kelsen's (1881-) "Pure Theory of Law," on the other hand, dissolved the state, theoretically, into a mere system of legal norms. About the actual forms of state and society, theory could say nothing; they must result from the struggle of given social and political forces. To this extreme concept of the state as pure law, Kelsen's antagonist, Carl Schmitt (1888- ), perhaps the most original, certainly the most versatile of recent German political philosophers, opposed that of the state as power, or rather, the vessel of power politics. Schmitt's theory proclaims as "sovereign" not "the people," not the "individual," not even the state as such, but the man who controls the state in periods of emergency, for all politics, internal and external, is warfare, a "friend-foe" relationship. This theory revealed real though often hidden power relationships in a state and among states. But if less legalistic and more realistic than other theories, it was also likely to serve dictatorial tendencies, and particularly those anti-democratic forces which from 1930 to 1933 put an end to Weimar democracy under the cloak of "emergency" powers.

The number and diversity of theories left the German people bewildered and without standards for attitude and action. The feeling of uncertainty about "what to believe" contributed to the rise of a new, dogmatic creed to which large masses flocked, the Nazi doctrine (pp. 626-27). Today, after the breakdown of that creed, no significant new theories have appeared. A certain strengthening of the idea of "natural law," a higher law binding even on the "sovereign" state and its organs, may be observed; this is in part connected with the present influence of Catholic thinking in Western Germany, and in part a reaction against an all-powerful regime (the Nazis') which had denied and disregarded any limits of action. In Eastern Germany, of course, no diversity of political thought is now permitted. "Marxism-

Leninism-Stalinism" rules supreme, and the effect of this indoctrination, in the long run, may split Germany ideologically as deeply as it is split politically today.

#### IV. ORGANS OF PUBLIC OPINION

##### *Earlier Developments*

If a democratic system of public opinion has the three functions of information, discussion, and representation (p. 14), German organs of public opinion, and particularly the press, have been faulty. The fault was not that, under a traditionally authoritarian type of government, opinion was "made" exclusively from above. On the contrary, even under the Hohenzollern regime, a wealth of different views could be expressed by a rich and varied press. To that extent there was "discussion." But the press was hardly "representative" in the sense that it allowed the people at large to give voice to their opinions and desires. The press was rather the mouthpiece of established groups and parties with their rigid doctrines and fixed policies. This fact also determined the character of "information." The entire German press was what Americans call an "opinion press," with no distinction between objective reporting and editorializing. Moreover, many newspapers, especially the chains formed in the provinces, came under the control of business interests. Local diversity, like general and political diversity, vanished before opinion-making by large established interests. This system continued into the post-World War I period. People read the paper that voiced their "line" and confirmed their views. In a large industrial city, for example, one was likely to find the official Social Democratic paper, the official Communist paper, the Center Party paper, later in the twenties a Nazi paper, and, in addition—and probably with the largest circulation of all—a paper that claimed to be "unpolitical" (or "unpartisan") but in reality was Rightist-nationalist and an organ for business interests. A large part of this "unpolitical" provincial press was in fact organized in a huge chain owned by the German Nationalist leader, Hugenberg. There were, indeed, a couple of well-known liberal

newspapers of high standards in Berlin (and a few also outside the capital, such as the renowned *Frankfurter Zeitung*), but they were usually "left" of general opinion and, as elections showed, despite their wide circulation, without much influence on political attitudes. It was characteristically the other way round in France, where the big Paris press was "right" of public opinion and of the provinces. In contrast to France, the German press was not openly corrupt, but the influence of special interests, through ownership and financial control, advertising, and party connection, was no less strong.

### **Controlled Opinion in Eastern Germany**

This system, like the corresponding German party system, was less suitable for spontaneous expression of popular attitude than for manipulation of opinion by various major groups and interests; this, of course, contributed to the political and doctrinal division of Germans. Then came control with a vengeance: the complete co-ordination of all organs of opinion by the Nazis. When Germans, in 1945, awoke from this experience with a burning desire for information in the place of indoctrination, the Allies had a first-rate chance to utilize this desire in the interest of reorientation. Instead, in the Soviet Zone the Germans got a new type of indoctrination, with the non-Communist press first compelled to cease opposition, then objective reporting; and it is now withering away altogether. What remains is under the supervision of the official propaganda agencies, complete with weekly instructions on what and how to report. The most important papers are the *Tägliche Rundschau*, official organ of the Soviet authorities, and *Neues Deutschland*, the central organ of the Socialist Unity Party (SED). The radio, film, and all other channels of communication or expression of opinion of course share the fate of the press. They all are used by the party and government as means of propaganda and indoctrination. People are not allowed to read the West-German press, nor to listen to any but official broadcasting stations. But Germans have learned from Nazi experience various and devious means to circumvent such co-ordination. And since, par-

ticularly in Berlin, communication between the "two worlds" is not yet completely cut off, we may assume that the intellectual isolation of the people in the Soviet Zone has not yet proceeded as far as in the Soviet Union or in some of the other satellite countries.

### **Public Opinion in Western Germany**

In contrast to Eastern Germany, freedom of press and opinion has been restored in Western Germany. Among the three Western Allies, the American Military Government was perhaps the most successful in this respect. It avoided censorship but carefully selected proved anti-Nazis as "licensees" of newspapers; these persons, in the main, proved to be free from the usual German political and doctrinal bonds and averse to currying favor with the occupation authorities. They adopted certain foreign features which made the German press more genuinely free and representative, such as "letters to the editor" or frank criticism of public authorities. Distinguishing reporting from editorializing, they gave the German people for the first time a more objective kind of factual information. In this way the new press became a better instrument for democratization than a completely free, i.e., unlicensed, press, with its inevitable Nazi and pro-Nazi tendencies, would have been. This suggests that democratization fares better sometimes under a purposeful management than under a hands-off policy of illusory freedom. The results of this policy, however, are now in danger because of the termination of licensing. This has meant the revival of the party press, renewed control by business interests, the re-emergence of some newspaper chains, and even the re-entrance into journalism of persons who were prominent Nazi propagandists. In the American Zone an attempt has been made through required leases of five to eight years to protect licensees against immediate dispossession by the owners of plants and facilities. But even so the influence of the owners has at times already turned a firm democratic line into the traditional, "wishy-washy" type of journalism.

Outstanding among present newspapers in Western Germany are the official United States High Commission paper *Die Neue Zeitung* and

the official British High Commission publication *Die Welt*. Of German-run papers, two published at Frankfurt are remarkable for both opinion and coverage: The *Frankfurter Allgemeine Zeitung*, which is close to the Christian Democratic Union (CDU), and the *Frankfurter Rundschau*, close to the Social Democratic Party (SPD). No complete press freedom, however, exists in West Germany today, since publications can be forbidden by the occupation powers, and actually the Communist papers, though not officially suppressed, are usually banned for one reason or another.

Side by side with the daily press, quality periodicals have reappeared. They have always played an influential part in German journalism. Reviews like the present *Frankfurter Hefte* do not have the circulation of the dailies but their influence over the German cultural and political elite is strong. In addition to politics, the general opinion journals in Germany have traditionally stressed cultural and philosophical topics. In this they resemble the system of German radio broadcasting. Established during the Weimar period under public ownership and management, the radio (except for the Nazi period, of course) was utilized less as a channel for public opinion than as a vehicle of culture.

It has provided its audience with generally high-standard (though not necessarily "high-brow") programs: Free from advertising and the ensuing bane of "lowest-common-denominator" entertainment (in return for which the German listener gladly paid his small monthly fee to the authorities), the radio, with its players and orchestras could devote itself to sponsoring music, the theater, and the arts. But there was little political discussion. Contrary to what might have been expected from a state-run system, those in charge leaned over backward to avoid partisan issues and restricted themselves largely to colorless news reporting.

Having restored the stations to German management, the Western Allies now foster their administration through mixed boards rather than by the state directly. These boards are composed of representatives of churches, educational institutions, trade unions, and the like. Whether this system will render broadcasting a more lively instrument of public opinion remains to be seen. So far, the organs of public opinion in Germany have scarcely become the "fourth estate" that controls and checks public authority by constituting the "voice of the people," a role which they play successfully in older democracies, such as Britain.

## CHAPTER 2

# The German Political Heritage

### I. HISTORY OF A DISUNITED NATION

"The history of the Germans is a history of extremes. It contains everything except moderation, and in the course of a thousand years the Germans have experienced everything except normalcy. They have dominated Europe, and they have been helpless victims of the domination of others; they have enjoyed liberties unparalleled in Europe and they have fallen victims to despotisms equally without parallel. . . . Nothing is normal in German history except violent oscillations." Thus a recent historian of Germany begins his story.<sup>1</sup> Indeed, the lack of continuity in Germany's development distinguishes that country most strikingly from the other major powers dealt with in this book. This absence of a past pattern also explains the absence, among Germans today, of a clear image of their future, of a certain goal for present policies. Where people like the French, even after violent changes, tend to revert to traditional patterns (observe, for instance, how the Fourth Republic resembles the Third), Germans have nothing certain to revert to and thus have remained prey to continuous uneasiness, strife, and change.

#### *The Holy Roman Empire*

For almost a thousand years Germany appeared in European history as an "Empire" claiming to be the successor to the Roman Empire and, as such, pretended to supremacy over Western Christianity. "Supremacy," however, should not be understood in the modern sense

of one nation's rule over other nations by power, but in the medieval sense of all Christian nations forming one family. Yet the Empire was not able to achieve even that kind of unification of Christendom. True, under Charlemagne (742-814) the empire approached genuine universality in this sense; but it disintegrated after his death, and when it was refounded one and a half centuries later (in 962, by Otto I, the "Great") it comprised only the Eastern half of Charlemagne's empire and had the allegiance of only German *Staemme*. The Western portion of Charlemagne's empire developed into what today we call a nation-state (France), but the Eastern unit did not. It called itself the "Holy Roman Empire of Germanic Nationality," but the emphasis was on Empire, not on Nationality, and it continued to aspire to European-Christian leadership.

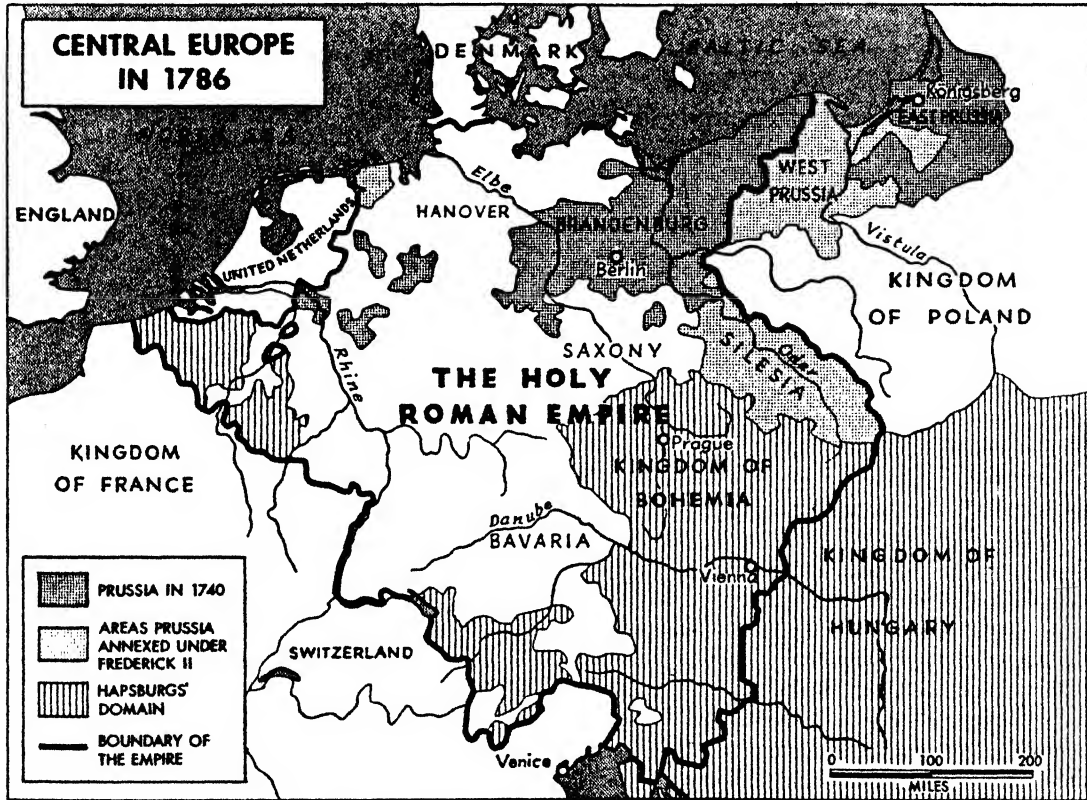
This emphasis on universalism had much to do with the subsequent failure of Germans to become a unified nation. The Emperors' claim was contested by the Pope in the spiritual realm, and by the rulers of other European countries in the secular realm. Thus the Emperors became involved in unending and futile struggles outside Germany proper, and were forced to grant ever more concessions to their powerful German vassals. In the end, they did not gain universal rule; indeed, they even lost their hold over Germany, which disintegrated into numerous territories. The grants of liberties to the nobles, which in insular England could not endanger the unity of the kingdom, in Germany led to the emergence of the higher lords as "princes," real rulers of territorial states. This left the Empire without actual power. In Voltaire's words, it turned out to be "neither holy, nor Roman, nor an Empire."

<sup>1</sup> A. J. P. Taylor: *The Course of German History* (New York, 1946), p. 13.

## THE TERRITORIAL STATES

In this way the foundation was laid for German "particularism" (above, p. 578). In England and France medieval feudalism, under which public power was dissolved in the rights and privileges of a hierarchy of feudal lords, eventually gave way to a unified state which

and to petty units, both secular and ecclesiastical. Some of them were "free cities" which had maintained independence from territorial overlords, others amounted to no more than large agricultural estates. All claimed sovereignty in the modern sense of international independence, but their weakness left most of them at the



absorbed the feudal powers. In Germany, feudalism destroyed the old unity, so that public power had to be established separately in each of the territorial units where the higher lords now ruled. What we call the "modern state," with its centralized state machinery, its triad of powers (standing army, bureaucracy, and taxation) and its triad of functions (lawmaking, administration, and justice) emerged in Germany as elsewhere in Continental Europe. But it did so in scattered units, which ranged all the way from big European Powers (Habsburg-Austria, and later Prussia) to middle-sized principalities (such as Bavaria, Saxony, Hanover)

and to petty units, both secular and ecclesiastical. Some of them were "free cities" which had maintained independence from territorial overlords, others amounted to no more than large agricultural estates. All claimed sovereignty in the modern sense of international independence, but their weakness left most of them at the

mercy of real powers, German and European. The German dream of universal rule had led to fragmentation. The old Empire, to be sure, continued to exist into the Napoleonic age (its formal demise came in 1806), but its control over territorial rulers was nominal. Emperors continued to be legally based on election, with the right to elect vested in the rulers of some of the main territorial states, the so-called "Electors." In practice, it became hereditary in the Habsburg dynasty. The Emperor was powerful only because of his Austrian possessions. As Emperor he had to share whatever power he had with

the imperial Diet (*Reichstag*), an assembly where the German "Estates" (Electors, other princes, and free cities), jealous of their individual sovereignties, were perennially incapable of common action. The Treaty of Westphalia (1648), terminating a war in which German princes, allied with outside countries, had fought each other bitterly and disastrously for thirty years, confirmed the legal sovereignty of the Empire's Estates.

#### RELIGIOUS SPLIT, ECONOMIC BACKWARDNESS

The Treaty of Westphalia also put the final seal on another German catastrophe. To the territorial cleavage was added the religious split. Germany, home of the Lutheran reformation, had been unable to gain religious unity. As has been explained above (p. 581), each ruler determined the religion of his territory. As a result, Austria and parts of Southern and Western Germany remained Catholic, and Brandenburg-Prussia in the northeast and most of Northern Germany became Protestant. Religious schism intensified the contrasts created by territorial divisions. In this respect, too, Germany differed from the more unified Western countries in that religious schism created internal contrasts. Lutheranism, with its principle of obedience to worldly authority, facilitated the rise of an efficient but austere absolutism in Protestant regions, especially in Prussia, while Catholic regions often developed a less rigid rule. Religion, of course, does not account for everything. Thus, the peculiar social-economic system of Germany east of the river Elbe, with its large estates owned by the nobility (the *Junker* class), which held its peasants in hereditary serfdom, contributed to authoritarian developments in Prussia. The general climate of East-Elbian Germany, with its Slavic admixture, contrasted with the more relaxed, enlightened, "Westernized" atmosphere in, say, the Rhenish archbishoprics, or a South-German "free city." Or we may cite the Austrians, who became cosmopolitan in outlook as compared with inhabitants of petty principalities.

There was yet another cause of such pettiness. In the sixteenth century, owing to the shift of the commercial life of Europe to the Atlantic, the rise of a strong and prosperous

German middle class that had begun in the later Middle Ages (when such cities as Augsburg, Frankfurt, or Cologne were centers of European trade) was suddenly arrested, and German economy and society remained backward up to the nineteenth century. This break can be measured by what happened in the realm of culture. Early in the sixteenth century the works of the great artists Albrecht Dürer and Hans Holbein still reflected the sturdy and solid culture of the late-medieval German city. After them came a period of barrenness which lasted until long after the Thirty-Years' War (1618-1648), when another generation began to put its dreams of a better world into sublime music and metaphysics. Not until toward the end of the eighteenth century did German culture have a general—and splendid—revival. And not until far into the nineteenth century was German economy revitalized and Germany, as a nation, able to organize itself into the political unity of a new German Reich.

#### The Rise of Prussia

Thus political life in Germany came to center in the territorial states. And it was largely due to the rise of one of them, Prussia, that a unified Reich was established in 1871. The rise of Prussia is one of the miracles of modern political history. The "Electorate of Brandenburg," named the "Kingdom of Prussia" in 1701, was remote from the centers of Germany and looked toward the Slavic East on the Baltic Sea. Who could have foreseen that it would become the most powerful of the German territorial states, and eventually the founder of the new Reich?

#### THE HOHENZOLLERNS

Unlike other German states, Prussia was in a way an artificial unit; it lacked *Staemme* unity and cultural tradition, a stable economic basis, and even geographical coherence. Its main territory was in the northeast of Germany (on soil conquered from the Slavs), but other bits were scattered over the rest of Germany. Its rise was almost exclusively the work of its ruling dynasty, the Hohenzollerns, who built Prussia upon the sandy soil of Eastern Germany by sheer will, energy, tyranny, and conquest. Frederick William, the "Great Elector" (1640-

1688), first in an almost uninterrupted 150-years' succession of brilliantly gifted though entirely unscrupulous rulers, defeated the still existing feudal lords in his territory and then put the nobles, deprived of most of their feudal powers, to work in the leading positions of his newly established central administration. King Frederick William I (1713-1740) built up the Prussian army as the foremost part of the state machinery. Finally Frederick II, the "Great" (1740-1786), in a series of diplomatic maneuvers and wars that rendered him famous for ruthlessness even in an age of completely Machiavellian power politics, established Prussia as one of the recognized Great Powers of Europe, on an equal footing with older Powers, such as Austria or France.

#### MILITARISM

These achievements paralleled what Richelieu, Mazarin, and Louis XIV did for France (above, p. 252), and, as in France, much of the administrative structure then established is still recognizable in present-day Germany. But, while, "constitutionally," eighteenth-century Prussia was very similar to eighteenth-century France, the model of *ancien régime* absolutism, the political climate of Prussia was entirely its own. Since Prussia lacked the wealth and the skilled and dense population that underlay the power of other European nations, it could build and maintain itself by only two means: armed force, and an effective and thoroughly economical organization of state affairs. The army always came first. A quip of the time described Prussia, not as "a state that has an army," but as "an army that has a state." Militarism became the trade-mark. It meant not only a strong army but the dominance of the military spirit, with the principles of discipline, hierarchy, and blind obedience inevitably invading the non-military fields. It meant that military affairs remained exempt from civilian control even when, subsequently, other affairs to some extent came under the control of parliament and parties. The Prussian officer became the symbol of social prestige, the German counterpart of the English "gentleman" or the successful businessman in America. To this day, military or government position rather than wealth, income, or even birth is the measure of prestige in Ger-

many. Even at the height of his power, a ridiculous thing hampered Hitler: he had never had officer's rank in the German army!

#### PRUSSIAN ADMINISTRATION

In administration, too, Prussia developed its own climate. For, while in France and other countries the nobility flocked to the court, Spartan Prussia could afford no large class of noble drones. The Prussian nobles formed the backbone of a bureaucracy whose capacity for hard work, efficiency, and discipline was unique among the countries of the *ancien régime*. This very fact created a sense of community between rulers and ruled. Prussia's kings considered themselves "first servants of the state," a phrase which Frederick II opposed to Louis XIV's "L'Etat c'est moi." Glaring differences between rich and poor, capital and countryside, and the unmerited privileges of nobles living in luxury at the expense of the honest burgher made a country such as France ripe for revolution. In Prussia the rustic way of life of rulers and *Junkers* rendered more bearable the pitifully low living standard of the ruled and gave them a sense of sacrifice shared in the interest of the whole, the state. On the other hand, the ruling groups, particularly the state officials, developed a sense of responsibility for their inferiors. There was to be no arbitrariness in the management of the affairs of state. Codified laws told the subjects what to expect, and law courts were established to protect them in whatever rights they were granted. Still, even though this was the beginning of the *Rechtsstaat* (above, p. 589), everything remained based on the authoritarian principle of command and obedience. The few who by birth and ability were destined to rule did so efficiently and honestly, but no glimmer of freedom or political initiative penetrated into this garrison-state, and no money or energy was allowed to be "wasted" on culture and other non-military and non-official amenities of life.

On this "Prussian spirit" was patterned much that still exists in German life and institutions. The family was authoritarian, with the father demanding obedience and the children raised in the spirit of observance of duties; pupils were in awe of their teachers. In the country, the *Junker* landowner continued to hold public



(police) powers over those living on his estate; in business, the head of the firm became the master; even in organizations formed, later, in opposition to the feudal-absolutist regime, such as trade unions or political parties, functionaries dominated the members. The state official became the model of efficient management to such an extent that the very term, "official" (*Beamter*), is often applied in Germany in fields of private management, e.g., "banking officials" for bank employees.

Thus the rising middle classes in Prussia-Germany did not, as in other countries, replace the feudal-authoritarian pattern of life with a liberal-equalitarian one. It is true that outside the original home of Prussianism—the territories east of the Elbe—Germans, even when they became Prussian subjects through Prussia's acquisition of new territory, considered themselves as "Muss-Preussen" (people compelled to be Prussians) and, like many South-Germans, disliked the spirit of old Prussia. And industrialization and urbanization came in time to soften the rigidity of the older Prussianism, though frequently not so much by enhancing freedom and political responsibility as by allowing for more luxury and enjoyment of life: in effect, the old Prussianism minus its sense of responsibility.

### *The First Defeat of Liberalism*

Up to the time of the French Revolution, internal political developments in Germany mainly paralleled those in the other Continental countries. Not so in the nineteenth century: no liberal middle class arose then to replace the authoritarian rule of the old powers with a democratic system. In this, German developments paralleled Russian developments, except that Russia never knew a strong movement for liberal democracy. Germany did. The tragedy of her political history was that a liberal movement was there but that it was not able to defeat its opponents. Instead, it was itself three times beaten.

#### FRUSTRATION OF EARLY REFORMS

The first defeat of liberalism occurred after a promising beginning of reform had been made in Prussia during the Napoleonic era.

Defeat of Prussia at Napoleon's hands had shown a glaring weakness in the Prussian system. Authoritarian rigidity, under the less capable successors of Frederick the Great, had turned it into a dead machine, unable to compete with the living forces of a nationalized and revolutionized France. Therefore, more far-sighted leaders, foremost among them Freiherr von Stein (1757-1831), contemplated a kind of "revolution from above." Their idea was to modernize state and society by using surviving old liberties and similar German traditions. The spirit and practice of self-government were to be acquired by building up democracy from below, locally at first, and then regionally and nationally. All this was intended to give Germans a feeling of participation in public affairs and to make them capable of liberating themselves from the French yoke. Actually, the Prussian serfs were freed, and some measure of self-government was introduced in the cities. But the spirit of reform vanished after victory over Napoleon had been achieved (1813-14). The Prussians had fulfilled their duty on the battlefield, but the rulers forgot their word. No constitution was introduced. Reaction restored full rule from above. And while the peasant retained his legal freedom, he did not get land—any more than did the American Negro after his emancipation, or the Russian serf after 1861. There developed that contradiction between legal freedom and economic unfreedom which Karl Marx was quick to note and apply to his analysis of bourgeois society. The free but landless peasant migrated to the factories of the new industrial cities, where he was exploited to such an extent that the state eventually had to intervene. It did so when it appeared that, owing to the declining health of the urban proletariat, military conscription no longer yielded sufficient numbers of draftees. The king and his barons needed soldiers, and so factory legislation was passed, even though the new coal barons in the Ruhr loudly complained of rising production costs. In Prussia, even social policies had a military foundation.

#### FRUSTRATION OF EARLY NATIONALISM

Thus liberal-democratic hopes were dashed. So were national aspirations for unification. German nationalism, particularly among Ger-

man middle-class youth, had emerged as a reaction to Napoleonic rule. Von Stein and others had the vision of a federated Germany built on a liberal-democratic foundation. Napoleon himself had unwittingly created a precondition for national unification. At the time of his conquests, many of the smaller territorial states, including all of the ecclesiastical principalities, had been consolidated into a number of larger units, and existing larger states had acquired new territory. Prussia, at the Congress of Vienna (1815) got Rhineland and Westphalia, in Western Germany, an area comprising the Ruhr. But, as with internal reform, reaction after 1815 prevented unification. The dynasties, and the nobles and officials allied with them, stood for maintenance of the sovereign independence of the states. Instead of a unified Germany, a "German Confederation" (*Deutscher Bund*) was formed. It was a loose federation of German states without direct jurisdiction over inhabitants of member-units. Its only organ, the Federal Diet, was not a representative body of the German people but an assembly of delegates from member-states, a permanent conference of ambassadors which proved as incapable of action as had the diet of the defunct Holy Roman Empire. In practice it was chiefly used to coordinate suppression of the liberal-national movement wherever it lifted its head. Prohibition of writings and meetings, and imprisonment of youthful "demagogues," mostly students, were the only visible expression of a spirit of "unity" in the Confederation.

### *The Second Defeat of Liberalism*

The growth of national liberalism, whose ideological concepts—a mixture of liberalism and political romanticism—have been explained above (p. 589), was not stopped, however, by suppression. With the beginnings of industrialization, agrarian Germany gradually modernized itself. The new industrial middle class demanded a share in government and clamored for national unity, especially since the many internal boundaries hampered trade. Economic unification of much of Germany was attained with the establishment, under Prussian leadership, of a customs union (*Zollverein*) in 1834;

but a politically unified and liberal Germany seemed as far away as ever. Despairing of achievement of this aim in co-operation with the forces in power, German liberalism tried to attain it by revolution. Germany at last seemed ready to join the European trend toward constitutionalism and democracy. But the failure of the Revolution of 1848 was, instead, the second disaster of German liberalism.

### 1848

At first, the revolutionary movement swept everything before it. The princes in the capitals were forced to promise constitutions; moreover, they were forced to agree to the convening of an all-German constituent assembly. Issuing from universal manhood elections, it was Germany's first real representative body. In its composition it was typical of German liberalism, which was a movement of the educated classes rather than of the masses. In St. Paul's Church, at Frankfurt, where the Assembly convened, professors, poets, and intellectuals were as plentiful as lawyers are on Capitol Hill. With German thoroughness they began drafting a constitution. Instead of establishing some kind of central government with real power, capable of resisting counterrevolutionary tendencies, they labored long over a catalogue of fundamental rights. And while, after its adoption, they quarreled over whether or not Germany should include Austria, whether it should be a monarchy or a republic, unitary or federalistic, the old powers acted. Armies and officialdom had in the main remained loyal to the dynasties. With their help the princes crushed the liberal forces in Vienna, Berlin, and elsewhere. The King of Prussia, to whom emperorship had finally been offered at Frankfurt, refused to accept a "crown of mud." Thereupon, the Frankfurt parliament was dissolved. The middle classes, frightened by the specter of social revolution (although at that time socialist and similar movements were still quite weak in Germany), gave in without further resistance. Those who could not reconcile themselves to a new era of reaction emigrated to America. As in a later period of oppression, Germany lost to other countries the cream of its liberal and freedom-loving leaders.

### **The Third Defeat of Liberalism and the Founding of the Empire**

Before the unity which German liberals had been unable to achieve was finally established through "blood and iron," liberalism was given another chance. Its failure has influenced the character of German government and politics ever since.

#### **PRUSSIAN CONSTITUTION**

Certain reforms, which though only paper concessions might have furnished the basis for further progress, had survived the defeat of the revolution of 1848. Among these were written constitutions, of which the Prussian constitution of 1849-50 was one. This document reflected the peculiar German type of constitutionalism which has been mentioned before (p. 589). It issued, not from popular sovereignty but from the Crown which "granted" it, presumably as a revocable concession. At most, it was considered a contract between Crown and people, with the Crown predominant. The Crown retained executive power; and while there was to be a parliament, that body had no control over the ministry, which was responsible only to the Crown. Moreover, parliament was organized so as to ensure the continued rule of the old powers. An upper house was composed of *Junkers*, appointed officials, and other dignitaries; a lower house represented the "people," but in a peculiar fashion: It was elected on the basis of a "three classes system" under which the handful of voters who paid the highest third of taxes elected one third of the deputies, those who paid the second third again elected one third, and all the rest, about 85 per cent of all voters, could elect no more than the remaining third. This system was devised to perpetuate the rule of the land-owning nobility allied with the wealthy upper bourgeoisie. Moreover, parliament shared the power of legislation with the executive, which retained an absolute veto.

#### **THE "PRUSSIAN CONFLICT"**

Still, this system offered an opening wedge for constitutionalism of the Western type. The test came when, reflecting the general European heyday of *laissez faire* liberalism in the 1860's, a liberal majority was elected to the lower house

in Prussia. This majority decided to establish once and for all its share in government by rejecting a budget proposed by the conservative ministry. Significantly, the issue was over appropriations for military service and the organization of the army; it thus affected one of the sacred principles of old Prussianism, the primacy of military affairs and their exemption from civil control. For a fleeting moment it looked as if this conflict between Crown and parliament (commonly referred to as "The Conflict," with a capital C), might be solved as it had been in England in a similar situation two hundred years earlier. King William, unable to find a prime minister ready to fight it out with parliament, saw the specter of the beheaded Charles I and was on the point of abdicating when he found his man in the person of Bismarck.

#### **BISMARCK**

Otto von Bismarck (1815-1898) was that rare German who can see and weigh the real forces and chances in politics and use them in a realistic fashion without regard to personal or political prejudices or predilections. A *Junker*, he stood for authoritarianism. But, unlike his fellow nobles, "divine right of kings," "legitimism," and similar dogmas meant nothing to him; only power, not principles, counted. While his fellow nobles stood for Prussian sovereignty as against German unity, Bismarck realized that unity must be achieved. If so, why not through Prussian force and under Prussian hegemony? While others might hesitate to resort to force, scheming, and disregard of the law, Bismarck (in politics, not in his private life) was utterly without scruples, believing that the end justifies the means. Thus he took up the fight for the authority of the Crown, ruling without parliamentary appropriations and thereby openly flouting the constitution. He had judged the situation right: Prussian officials continued to serve, the Prussian people continued to pay taxes and obey laws, and thus the cause of parliament was lost. There was no tradition of constitutionalism in Prussia, only that of obedience to the authorities. "Might made right," and this quite literally, for when Bismarck had concluded the struggle victoriously he had parliament officially sanction, or

"legalize," whatever had been illegal in his actions, a procedure which, while conceding nothing, satisfied German rule-mindedness.

#### UNIFICATION

Bismarck now proceeded to establish German unity on the same iron basis as he had reaffirmed authoritarianism in internal government. This meant fighting it out with the one Power which opposed German unity under Prussian hegemony: Austria. "Polarization" of power in the German Confederation in two "superpowers" which politically dominated the smaller states as "satellites" (ominously like the present world-situation) had in Bismarck's view to result in armed contest if the "German question" was ever to be settled. Once more disregarding a charter (this time that of the German Confederation), he took up the battle with its entire membership, and again might made right: after Austria's defeat (1866) a number of those German states which had fought on her side (Hanover, Hesse-Kassel, and others) were incorporated into Prussia. With the rest of the states in North Germany, Prussia now founded what amounted to a genuinely federal (not merely confederate) unit, the North German Federation. Its constitution foreshadowed that of the second Empire. Three years later, this Empire (*Deutsches Reich*) was established through the accession of the South German states to the North German Federation. This happened at the victorious conclusion of yet another war provoked by Bismarck, the war fought jointly by Prussia and the South German states against France (1870-71). Thus German unity was finally achieved.

The events since the Napoleonic age, and particularly the events of the decade which began with the "Prussian Conflict" and ended with the founding of the Reich, had a lasting impact on the Germans. These events seemed to prove the inherent weakness of popular forces and the invincibility of the established powers of army and state: force is what counts in history; without its use, without a supreme disregard for law and morals, the cherished aim of national unity could not have been achieved. In exchange for unity, the German middle class reconciled itself to continued non-freedom internally. Liberalism now appeared as a mirage

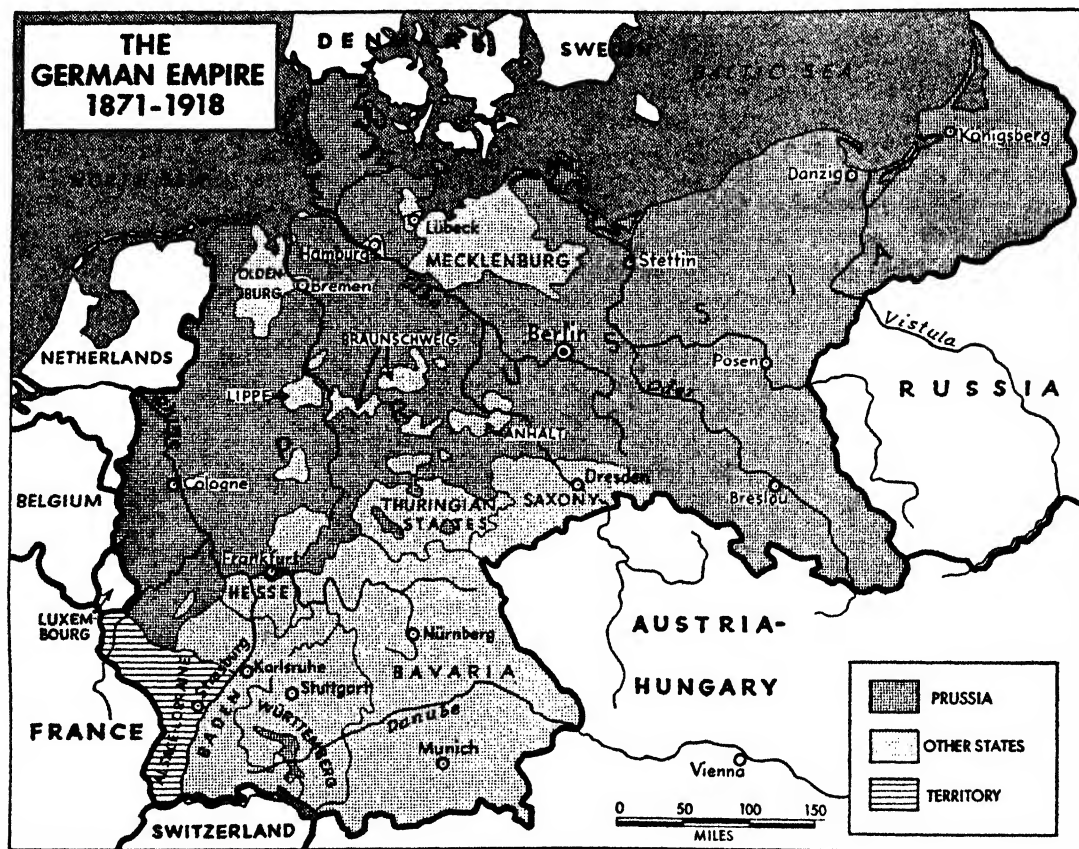
that for a while had misled Germans but in the long run had been unable to seduce them. An alien, Napoleon, as heir to the French Revolution, had first infected Germany with liberal principles; the Revolution of 1848, likewise, had followed a French model. Now Germany appeared clear of this foreign infection. The black-red-gold of the old liberal movement and of 1848 was remembered at best as a symbol of an impractical, romantic dream. Its place was taken by the black-white-red (in which the black-white of Prussia predominated) of the new powerful, rational, and entirely practical German Empire.

## II. GERMANY AS AN EMPIRE (1871-1918)

There are eras in the history of nations that particularly affect the character of their life, of their society, and of their political institutions. For the Germans the Empire was such a period. German developments before the Empire, despite the repeated failure of liberalism, had not been unlike those in Western, particularly Continental, countries. After all, in France, too, up to 1870, liberal and democratic attempts time and again had been frustrated (pp. 254-55). But while the French, subsequently, were allowed to develop gradually a firm democratic pattern, the Hohenzollern Empire for fifty years turned Germany away from the path of the Western democracies. Thus the period from 1871 to 1918 constitutes the great divide. In this decisive period Western nations moved toward liberal democracy, but Germany maintained, and reinforced, the authoritarian status quo. This is what hampered the Weimar Republic; this is what still hampers present liberal democracy in Germany. The Empire gave the Germans their first, and so far only, chance to live together as a stable, unified nation, and to enter the arena of world politics as a Great Power. Then it was that the characteristic features of modern Germany were consolidated. While in the same period Britain and France consolidated a pattern *against which* any anti-democratic tendencies and movements have had to struggle, in Germany this period set the pattern against

which democracy itself had to struggle. There is not much to the stereotype that Germans are authoritarian "by nature," but many have been made authoritarian by the essential character and influence of the Empire. Among Germans now living, the older ones were raised under it,

in the United States). It differed from the American federal pattern in two ways. First, sovereignty, instead of residing in the people, rested with the princes of the member-states, who were represented in the primary federal organ, the Federal Council (*Bundesrat*). Sec-



and the middle-aged still remember it. Hence its importance for present-day German conditions.

### **Bismarck's Constitution**

The imperial constitution was unique in that it combined authoritarianism with federalism. That the Reich was genuinely federal, and not a loose confederation, appeared from the existence of central Reich organs and powers and from the fact that Reich laws were directly binding upon each citizen (as are federal laws

and, member-states, far from being legally equal, were but an agglomeration of unequals under the hegemony of one of them, namely Prussia. But, being federal, the Empire could not be an absolutist autocracy. The Emperor (*Kaiser*), symbol of the Reich's unity, was checked by the Federal Council, and also by the only democratic-representative institution of the plan, the Federal Diet (*Reichstag*). Thus the constitution blended contrasting elements: Federalism and hegemony, federalism and authoritarianism, and, lastly, authoritarianism and some measure of democracy.

## REICH AND MEMBER-STATES

Federalism was genuine, and state-rights were strong. Most of the administration of internal affairs remained under state jurisdiction, with the Reich's powers restricted mainly to foreign affairs and to certain economic matters (posts, currency, and so forth). And even where the Reich had jurisdiction to legislate uniformly (e.g., in civil, commercial, and criminal law), there was established a principle which to this day has been a peculiar feature of German government: the member-states, generally, are in charge of the administration and execution of federal laws. Federal legislation thus does not usually require the establishment, as it does in the United States, of corresponding federal administration. To the ordinary citizen of the Empire, therefore, "state" still meant primarily the member-state (such as Prussia, Bavaria), its executive machinery, and its bureaucracy. Gradually, it is true, the Reich established a number of its own administrations. The tendency toward centralization, which characterizes modern federalism everywhere, developed in the Empire too. Financially the Reich, which at first depended on contributions from the states, grew gradually more independent and this was the basis for more independence in everything.

But increase in Reich powers meant little as long as Prussia played a dominant role in Reich affairs. The main constitutional body through which Prussian influence was exercised was the Federal Council. This council was not, as is usual in federal states, a representative assembly with delegates elected by people or parliaments of member-states (as, e.g., the United States Senate), but consisted of delegates—usually high government officials—appointed and instructed by the governments (i.e., the princes) of the member-states. The votes of the 25 states were weighted, with Prussia having 17 out of 58. Since Prussia could usually count on votes from smaller states, it held a strong position. It could, moreover, block constitutional amendments, since 14 votes sufficed to defeat an amendment. The council not only shared law-making power (with the *Reichstag*) but also had important executive functions, e.g., the power to enact so-called "executive ordinances." It became more and more customary in Ger-

many for federal statutes to lay down merely a framework of principles, with the details spelled out by executive regulations. Thus order legislation, which after World War I became common in many countries, has been a traditional feature of German government.

## REICH EXECUTIVE

In the field of executive power, Prussia's influence was exercised through the Emperor. The Emperor was constitutionally identical with the King of Prussia. Thus, whatever powers he lacked as Emperor he could indirectly exercise as king of the hegemonial state. As Emperor, for example, he had no share in Reich legislation, but he could influence legislation through the Prussian votes in the Federal Council. His other powers were considerable. He controlled foreign affairs (including the power to make war and peace); he ruled over the colonies (which the Reich acquired in the 1880's) and over Alsace-Lorraine (which up to 1911 was without autonomy); he directed the navy and the army, which remained Prussian in organization and largely in command; he appointed the Reich Chancellor, who usually was also the Prussian Prime Minister, which further strengthened Prussian influence; and he had the right to proclaim martial law.

The relation between Emperor and Chancellor was one of the moot points of imperial government. Theoretically, the Chancellor was completely the creature of the Emperor, who could appoint, maintain, and dismiss him regardless of parties, majorities, or any other influences. But the actual center of power depended on the personalities of *Kaiser* and *Kanzler*. As long as Bismarck was at the helm the relation resembled the British pattern, with the Emperor, William I, submitting to the political dominance of the Chancellor. The relation changed with the advent of William II (1888-1918). This capricious and egotistic monarch preferred pliable executors of his "personal regime."

The Chancellor in his sphere was an autocrat; he had no "cabinet" of the British or French type but was the administrative chief of a number of "secretaries" who headed the various executive departments. While his position thus resembled the relationship between



an American President and his department heads, it is, of course, true that the President's mandate issues from the electorate, while in Germany the Chancellor's mandate issued solely from his monarch. The Chancellor invariably was a high nobleman, officer, or official. The Reich bureaucracy, over which he presided, was staffed largely with Prussian officials, to the detriment of the (sometimes more liberal) South German administrations. No party leaders, and rarely representatives of other than the noble and official classes, could expect appointment to higher office. The Reich as well as Prussia was ruled by conservative forces ("conservative" in the general as well as the party sense of the word). There *was* self-government in the cities, and some liberal, even parliamentary, beginnings in certain South-Western member-states (e.g., Baden). But to the Empire as a whole one could apply what was said about the British House of Lords: Whatever parties might rule in parliament, the conservatives were perennially in power.

#### PARLIAMENT AND PARTIES

At face value, parliament was a strangely democratic island in an authoritarian environment. It was exceptional, in Germany (and in most of Europe, for that matter), in that it was based on universal manhood suffrage. Why Bismarck hit on this device is a matter of controversy. He desired a strong popular symbol of German unity against any too strongly particularist or even separatist (secessionist) tendencies on the part of princes and member-states. Also, he may have hoped that universal suffrage might turn out in favor of conservatives rather than liberals, with the *Junkers* controlling the rural vote. (There is the story of the *Junker*, who, having cast personally all the votes of his "subjects," and being asked by one of them whether they might know for whom "they" had voted, answered gruffly: "What? Don't you know that the ballot is secret?") Actually, the system did reflect political opinion in the country (although progressively less as urbanization increased without corresponding redistricting). The trouble was that the *Reichstag's* influence was slim, and wholly negative. It had no power over the executive, and all its criticism and opposition was therefore pointless. It was needed

for enacting federal laws and passing the federal budget. But the parties were not allowed to assume governmental responsibility. Their leaders could not hope to be called into responsible executive position. They were manipulated in order to get support for governmental measures; handouts and concessions to this or that group, this or another party leader, would usually turn the trick. If worst came to worst, the *Reichstag* could be dissolved. The parties thus rarely organized themselves into stable majorities or minorities in support of, or in opposition to, the government. In only one instance did an adverse vote in parliament induce a Chancellor to resign, and that failed to become a precedent. Debates at times were furious, but usually futile. Members tended either to become government stooges or else to remain in stubborn and unconstructive opposition. Under this system Germans—even those who longed for it—had no chance to learn the ways of responsible government. Absence of such apprenticeship has left its mark ever since.

#### Social and Political Forces

The success of a modern government may be measured by its ability, or inability, to integrate modern economic and social classes into a community. From this view the Empire was not an unqualified success. True, there was that admirable efficiency (the inheritance from Prussia) with which the state and everything within it was organized. This efficiency lent that appearance of strength and stability of which the regime boasted and with which, throughout its lifetime, it was credited within and without. But the Empire failed to integrate the forces which rose during its sway.

#### The Rulers

While at the time of its foundation the Reich was still in the main old-fashioned, more rural than urban, more small-town than big-city, more handicraft and small-factory than giant-enterprise, it soon changed into one of the world's foremost industrial, trading, banking, urbanized countries, and this with a speed comparable only to that of the simultaneous development in the United States. Heavy industry



based on coal and steel, and chemical, electrical, machinery, textile, and optical factories changed the countryside; and the rise of the industrial classes, managers, white-collar employees, and, above all, industrial workers changed the social landscape. The class of big landowners (*Junkers*) lost proportionally in economic weight. But it did not lose its social and political power. That it could maintain that power into the industrial age was due to a basic compromise which underlay the political relationships between the old ruling powers and the bourgeoisie. Under this arrangement the old powers retained political control, while the middle classes made money. This compromise was the opposite of what, in a similar situation, had happened in Britain. There, the nobility accepted the new liberal-democratic framework of government in return for continued social standing and a share in the new wealth; in Germany the middle classes resigned themselves to the existing, authoritarian type of government in return for economic freedom and protection.

#### THE NATIONAL LIBERALS

This compromise, like the constitution itself, was the work of Bismarck. After their defeat in the "Prussian Conflict" the middle classes in the main gave up the idea of constitutional reform and cared simply to safeguard their economic concerns. This change is reflected in the split that occurred in the political party that represented these classes, the Liberal Party. Its majority became the National Liberal Party; an uncompromising left wing established itself as the Progressive Party but failed subsequently to attain any large voting strength or influence. It was this group, however, which guarded the tradition of 1848 and carried its ideas over into the subsequent, Weimar, period. The National Liberals, on the other hand, represented that combination of economic enterprise and of submission to established authority which is typical of the average German businessman. The National Liberals no longer had much in common with the liberal nationalists of the early nineteenth century. Nationalism had then meant unification; it now turned expansionist, imperialist, aggressive, and even racist. The earlier political liberalism had been crushed. Bismarck thus could base the first decade of his

rule over the Reich on collaboration with a chastened neo-liberalism. It had adopted his political framework and now assisted him in his battle against political Catholicism and against Socialism. Its reward was legislation which guaranteed legal security and freedom from executive interference in business activities.

#### IMPERIALISM

But here difficulties loomed. Increasing competition from grain-producing countries overseas under a free-trade policy threatened Germany agriculture and therewith the economic basis of the *Junkers*. The *Junkers* therefore clamored for protection. When the National Liberal bourgeoisie refused to yield to this demand, Bismarck, as suddenly and qualmlessly as he had previously dropped conservative in favor of liberal backing, dissolved his liberal alignment in favor of renewed collaboration with conservatives. And again he managed to split his adversaries; with protection for agriculture he combined protection for part of industry, mainly heavy industry. This economic alliance of *Junkers* and steel led to liberal-conservative reconciliation on the basis of high tariffs. Trading, especially export, interests were assuaged by the new imperialism, economic and political, which became the landmark of William II's era. William's naval program satisfied imperialists as well as those interests (e.g., steel) which thrived on navy orders. In this way, almost all economic interests were satisfied on the basis of state intervention, protection, and imperialist expansion.

Two things, both destined to become fatal for Germany, followed from these policies. One was that Germany, under a system of protection, remained comparatively self-sufficient; therefore she could plan for and make war even under blockade conditions. If the German middle class had chosen England's way, i.e., if it had chosen free trade at the cost of sacrificing agriculture, Germany could hardly have risked a world war. And, too, economic imperialism, while basically not different from that of other powers, was more clumsy in its diplomatic aspects; its emphasis on power and prestige and its aggressiveness antagonized the major powers. This again was a direct cause of World War I. The cautious and moderate policy which

Bismarck had inaugurated after 1871 and to which he held steadfastly until his dismissal (1890), gave way to William II's swaggering in-shining-armor type of foreign policy, which was largely influenced, or at least backed, by a nationalistic middle class. This policy, besides its economic advantages, provided this group with vicarious satisfaction of political ambitions unsatisfied at home. Organizations such as the Pan German League, which specialized in mass agitation for the new imperialism, were largely middle class in character and membership. When the danger became apparent, some among the middle classes began to worry and voiced opposition in parliament, through the press, and even through personal remonstrance at the court, but to no avail. William was protected from criticism, and his chancellors could not alter his basic policies, though they tried to soften their expression.

#### INFEUDEATION OF THE MIDDLE CLASS

Internal political control was maintained by the authoritarian classes, the *Junkers* and their allies, partly through the Conservative Party, partly, and more importantly, through a process which may be called the infeudation of the upper middle class. The Conservative Party, backed by nobility, army, officialdom, Protestant clergy, part of the peasantry and of the middle classes, was merely the parliamentary arm of the ruling groups; it was grudgingly organized after 1848, when it appeared that non-conservatives had become politically vocal. Since the agrarian *Junkers* became numerically insignificant in the new industrial society, it was even more important to draw from other classes, particularly the upper middle classes, sufficient numbers of people who would assist the nobles in ruling Germany in army, higher bureaucracy, and diplomacy. To qualify, a non-noble had to be imbued with the standards and prejudices of the old classes through a long process of "education to be a gentleman." He would first go through his higher education at the *Gymnasium* (the high school for the upper and middle, not the lower, classes), and then enter a university and try to join one of the select fraternities. Equipped with a dueling scar, a commission as a reserve officer, and legal train-

ing, he would be ready for a lengthy apprenticeship in administration or a similar field. To top it off, there might follow marriage into one of the "old families." Promotion would likewise depend on these factors. At each step care was taken that only the "right" persons were selected. Catholics and Jews were seldom admitted, and none with unorthodox opinions; Prussians and Protestants were preferred. And, as usually happens with parvenus, those selected would outdo the old groups in "feudal" and authoritarian attitudes. Where the genuine aristocrat could forego harshness and even indulge in *courtoisie*, the new member of the ruling caste would develop that disagreeable blend of subservience toward those above and arrogance toward those below which made this kind of German detested abroad.

#### The Ruled

##### THE PROLETARIAT

Despite this prevailing pattern German society became deeply split. The average German during the Empire was prosperous, and the living standard of all classes was rising. The paternal state took care to provide some measure of security for those in distress. A whole system of social security, including health and old-age insurance, workmen's compensation, and factory legislation was devised in order to anticipate and prevent social unrest. If such statism is "socialism" or "Bolshevism," then Bismarck and William II were "reds." But it was a grudging paternalism. There was no question of admitting the lower classes to social equality, let alone allowing them to share in political power. The rising tide of the proletariat filled the ruling classes with fear, which was answered by sullen hostility on the part of the workers. Most of them joined the Socialist movement through the Marxian Social Democratic Party (SPD). Bismarck's attempt to suppress it (1878 ff.) indirectly strengthened it. Driven underground, it now had its martyrs and it emerged into legality more powerful than ever. Although under a disadvantage through the election system, it became the strongest party in the *Reichstag*. Throughout

this period it embraced an official doctrine and attitude of total opposition to the existing regime (above, p. 590). Actually, though, the revolutionary doctrine slowly assumed the character of a "Sunday" creed, to be paid lip-service at meetings and in publications, while on "work-days" Socialists were more interested in improving the worker's living standard through trade unions. The worker acquired an economic vested interest in society through what the state granted by social legislation and through what he wrested himself from the employer. He became "reformist," but socially and politically he was still an outcast.

#### OTHER "OUTCAST" GROUPS

Others beside the workers were forced into passivity or hostility. There were the tenants and agricultural workers on the Eastern estates, most of whom were still serfs in outlook but some of whom awakened to "class consciousness." Among them were many Catholic Poles, whose nationality and religion were two more reasons for discrimination. Large numbers of Poles as well as the (likewise Catholic) inhabitants of Alsace-Lorraine were viewed with distrust. German Catholicism, a minority in the Reich, felt threatened and organized itself in the Center Party. To Bismarck this seemed dangerous for the unity of the Reich. Backed by the National Liberals (who feared clericalism), he tried to destroy "political Catholicism," but the Church and its organizations survived this "culture struggle" (*Kulturkampf*, as the anti-Catholics called it) in the 1870's as successfully as the Socialists survived Bismarck's anti-Socialist policies. Thereafter, Catholic interests were protected, and the Center Party subsequently exercised considerable influence as a political middle group. But Catholics continued to be discriminated against in administrative appointments, and the interests of the predominantly Catholic member-states and regions were often neglected. Many Catholics therefore joined those sectional forces which had lost out as a result of Prussia's victory over Austria in 1866. These "losers of 1866" comprised not only reactionary groups at the courts of the smaller member-states but also more progressive forces in South and West; these, prior to 1871, had

hoped for a "Greater Germany" including Austria. They still favored a Germany less "Prussian" and more liberal.

Toward the end of the Hohenzollern era, many Germans became aware of the internal cracks in German society, and apprehensive of the danger into which the adventurous foreign policy of the regime was bound to lead a basically still disunited nation. As long as criticism was voiced by the so-called "leftists," the ruling class could allow them to complain, since it controlled the main instrumentalities of opinion, the schools, and the universities. But criticism became more significant and ominous when it was voiced by Heidelberg professors, such as Germany's great sociologist Max Weber (1864-1920), or by rulers of big industrial combines, such as the industrialist and author Walther Rathenau (1867-1922). Such people realized the two-pronged danger inherent in foreign adventurism and internal authoritarianism, and questioned whether it would be possible to steer the state through stormy waters while it rejected active participation of the large majority of the people. Toward the end of the era, responsible people began to think of constitutional reforms, e.g., the introduction of responsible government of the parliamentary kind. When it came, in the final stages of World War I, it came too late. The Empire had remained as Rathenau described it:

The monarch was surrounded by the courtiers . . . who considered the state as an "all-highest family affair" and withheld from him anything disagreeable. . . . The court was surrounded by the class of the rural, military, and bureaucratic nobility. This class "owned" Prussia; it had created it and was in manifold ways connected with the crown. . . . It was, in turn, surrounded by the plutocratic bourgeoisie, demanding entrance at any price, ready to stand for anything. . . . Outside, however, was the people. The rural people stolid, without standards of comparison, led by nobles, church, drill-sergeants, and rural officials; the city people mobile, irreverent but impressionable, using themselves up in the intoxication of making money and spending it. Apart, and sullen, stood the workers' class, rejecting and rejected, negating the present, living in the future. . . .

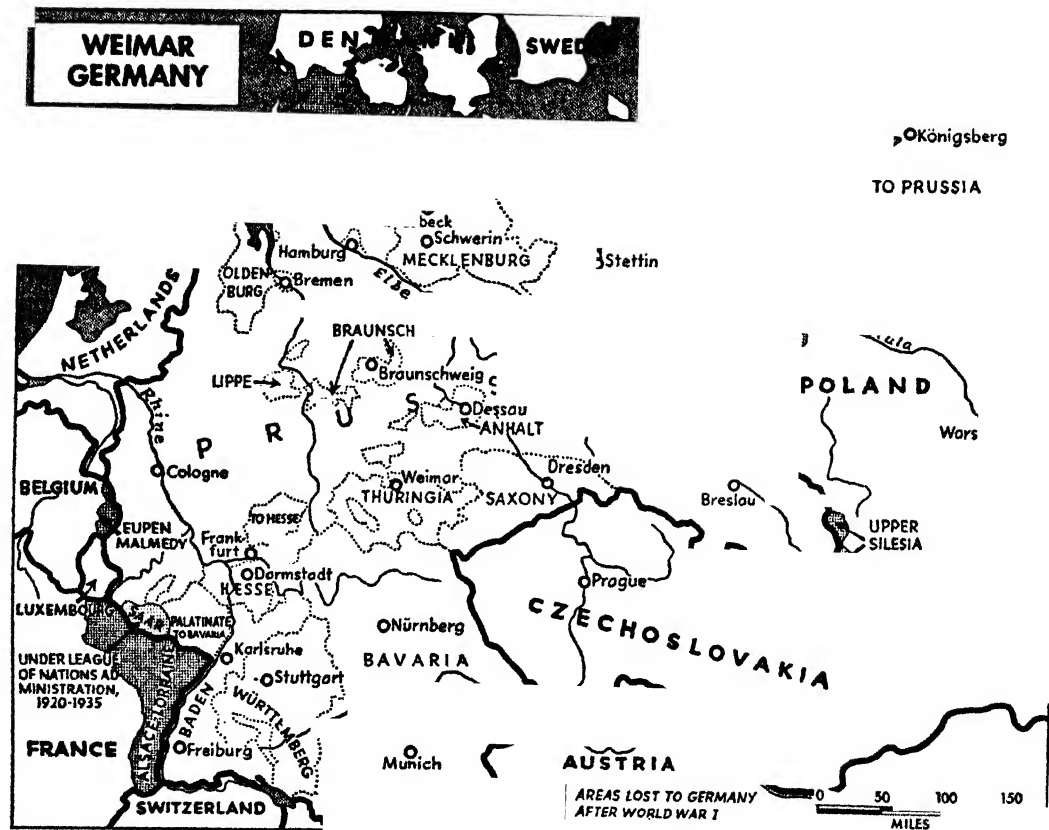
Such was the Empire's legacy to the first German Republic.

### III. GERMANY AS A REPUBLIC (1918-1933)

#### *Character and Emergence of the Weimar System*

In November 1918, under the impact of military defeat in World War I, William II and the other princes abdicated, and a group of socialist

capital, Berlin, was found unsuitable for drafting a constitution because it was in the throes of bitter street fights between leftist radicals and their opponents, with the former opposed to constitution-making by parliamentary procedure. That Weimar, the town where Goethe and Schiller had lived, was chosen instead, pointed up the hope of the republicans: that the "spirit of Weimar," symbolizing Germany's cultural



leaders (Right wing and Left wing Social Democrats) proclaimed a republic and set up a provisional government. Following general elections the Constituent Assembly adopted the "Weimar Constitution" in the summer of 1919.

The choice of the Thuringian town of Weimar (from which came the unofficial name of the Republic) as meeting-place of the Assembly was symbolic. It showed the difficulties as well as the hopes of the fledgling republic. The difficulties were highlighted by the fact that the

heritage, might henceforth replace the "spirit of Potsdam," the residence of the Prussian kings and the symbol of militarism and authoritarianism.

The fulfillment of this hope presented a difficult task indeed. German democrats started with a military defeat, a severe peace treaty (the Peace of Versailles, 1919), a deep social and political division of the German people, and ensuing internal disorder. They had to contend with Germany's isolation in foreign affairs, the

vindictive attitude of her former enemies, a heavy financial burden caused by reparations, and an ensuing currency inflation which further increased internal unrest and dissatisfaction. Even more burdensome was the legacy of authoritarianism. The old powers at first seemed discredited, to be sure, through the war they had lost. But after a short time, as today with Nazism, the memory of the previous regime's shortcomings faded, while the glories of the authoritarian past continued to be recalled. These glories were now contrasted with present miseries which, instead of being attributed to the failure of the previous regime, came to be blamed on the new one. German democracy thus was not only burdened with actual difficulties but also with the psychological handicap of being born of defeat in war and living under conditions which compared unfavorably with those prevailing under the Empire. And as such it was exposed from the outset to merciless attacks from both the Left and the Right. While the extreme Left indicted Weimar as exploitative capitalism trying to deceive the masses with a democratic façade, the Right inveighed against it as a "Republic of Jews, Marxists, and November traitors" and condemned it as a "revolt of the masses" which endangered the future of the nation.

In fairness, the difficulties of those Germans who stood for Weimar should be kept in mind by those who like to censure them for their eventual failure. At least they were there, and some made an heroic effort. It was not, as has been sneeringly said, a "Republic without Republicans." And it would not seem that the experiment was doomed from the beginning. The Republic was heir to an important trend in German history, the trend which led from the early freedom movements of the Napoleonic age to 1848. Dormant under the Empire, this liberal trend now emerged as the untried alternative to a system found wanting. A comparison with the beginnings of the French Third Republic would even seem to favor Germany. Monarchism, in the early years of the Republic, was far weaker than it was in France in the early 1870's, and Communism was little stronger than were the Communards of Paris (p. 255). There was no reason to believe that Germany might not have grown, on the model of the

Third Republic, into habits of democratic government. In other ways the two situations were parallel: Like the French republicans in 1871, the German republicans had to assume the burden of a defeat and an imposed peace settlement. They, too, had to beat down a proletarian movement by force, thereby becoming dependent on certain rightist and anti-democratic forces from the outset. What proved, perhaps, decisive was that, in contrast to France, the Weimar Republic enjoyed only a brief and largely artificial prosperity and then was struck by the most severe depression that ever visited a modern economy. The first German experiment in democracy crumbled under its blows. But despite its failure this experiment still looms large today. Much in the constitution and the political system of present Western Germany goes straight back to Weimar, and much of what is different constitutes a lesson learned from Weimar experience.

#### DEMOCRACY OR PROLETARIAN DICTATORSHIP?

The Weimar system was not based on revolutionary action. The so-called revolution of 1918 meant simply the vanishing of the old powers (Emperor, princes, and their governments) when they saw that the war was lost. President Wilson's intimation that a German Republic might expect better peace terms than the Empire, rather than any pressure of the German masses, accounted for these abdications. The old administrative machinery with most of its incumbents remained. Even the generals remained. It was a political void which was now filled by the Republic. But what kind of a Republic? Here the first problem arose. Revolutionary socialists, who formed the radical wing of the Social Democratic Party and soon split away from it as "Communists," wanted the system Russia had just introduced (p. 455), a proletarian dictatorship exercised by the "councils of workers and soldiers," which had sprung up in Germany in the fall of 1918, and which they hoped to control. They opposed the election of a constituent assembly because they feared that such an assembly would forestall whatever revolutionary action might achieve. They had reason to fear this, since, far from carrying a majority of the people, they failed even to carry the majority of industrial workers. In the firm

belief that world revolution was around the corner, the revolutionaries—actually a mere handful of radical workers and intellectuals—thereupon staged an uprising; they were overwhelmingly rejected by the masses of the German people (winter 1918-19). The defeat of leftist radicalism opened the way for the second alternative: the establishment of a democratic republic.

Unfortunately for the future of German democracy, the Communists had been the only active revolutionary group. To beat them the Social Democrats had called upon generals and reactionary nationalist groups armed by the generals. It is possible that there was no alternative, since the republican masses were unarmed; yet they might have tried to arm these masses. In any event, it was a bad omen for the future of democratic government that it owed its birth to the intervention of its own Rightist enemies. One recalls what happened in France in 1848, when middle class and workers, having joined to defeat the old forces, split over the attempt of radical workers to stage a social revolution, an attempt put down with the help of reactionary force. The result, in France, has been Bonapartism (pp. 254-55). In Germany the eventual result was worse.

#### FRAMING THE CONSTITUTION

For the time being, however, the way was clear for the framing of a constitution. Following the traditional Continental procedure, the constitution was drafted and adopted by a constituent assembly issuing from general elections (1919). It was the work of three parties which together had obtained a large majority: Social Democrats, Center Party, and the Democratic Party, heir to the Empire's Progressives (p. 607) and now the rallying point of the middle classes fearful of Leftist radicalism. This election was important for two reasons. First, neither the radical Left (Communists and "Independent Socialists," a split-off from the Social Democrats who subsequently rejoined them), nor the anti-republican Rightists (chiefly the Conservatives, under their new label of German Nationalists) made a good showing. Secondly, the socialists (Communists, Social Democrats, Independents), combined, failed to attain a majority. Consequently, Germany's new structure had to be

devised by a coalition of socialists and non-socialists, workers and middle class. The German people had voted for "law and order." What kind of law? What kind of order?

#### THE UNDERLYING COMPROMISE

Bismarck's Reich had been founded on an understanding between the authoritarian forces, which would go on ruling politically, and the upper middle class, which obtained freedom in the economic sphere (p. 607). In similar fashion Weimar was based on a compromise, this time between the working class, as represented by the Social Democrats and trade union leaders, and the middle class, acting through leading industrialists. The main basis of agreement was the acceptance of the new, parliamentary-democratic framework of government. But it was an uneasy, and to some extent ambiguous, agreement. For instance, it was doubtful whether there was clear agreement that the will of a majority should be controlling in basic social-economic questions, such as the future structure of the economy. In November 1918 a formal agreement between industrial and trade union leaders (the Stinnes-Legien agreement) had established the trade unions as equal partners in collective bargaining. This foreshadowed a social reform type of capitalism, a New Deal type rather than a nationalized (socialized) economy. The trouble was that to the Social Democrats this agreement constituted the minimum from which to start in the direction of socialism; the entire Social Democratic program was predicated on the expectation that some time there would be a chance to legislate socialism into existence. But to the industrialists this agreement seemed to be the maximum concession. Would they be ready to accept a contrary vote in good faith?

In addition, the underlying compromise was endangered from outside forces. Communist opposition from the Left forced the Social Democrats to continue to stress full socialism as their final aim. This, in turn, frightened the middle class into opposition to a system under which it could one day be voted out of its property. A large proportion of the middle class joined the opposition from the Right, which from the outset had been hostile to the new constitutional pattern. The Weimar system thus became ever more endangered from the Right

as well as the Left. It was on this shaky and ever narrower foundation that the Weimar Constitution rested.

The Weimar Constitution was in theory one of the most comprehensive and progressive constitutional documents of its time. It provided for all imaginable procedures and institutions of democracy, from the popular election of a chief executive to proportional representation and lawmaking by plebiscite. It provided for a large amount of liberalism through an elaborate code of civil and political rights. It established progressive principles of social and economic policies. Its main shortcoming was an impractical and unclear effort to have the best of all worlds. There were borrowings from America, Britain, and France. Instead of a simple parliamentary system, for instance, there was a counter-weight to Parliament in the office of an independent Presidency, but without clear indication as to whether the executive branch should be responsible to Parliament or Presidency. To these more technical shortcomings were added ambiguities regarding fundamental social, economic, and cultural principles. The latter, of course, merely reflected the ambiguity of the basic class compromise underlying the new system of government.

### **Weimar Federalism: Reich and Länder**

First on the agenda at Weimar was the problem of Germany's territorial organization. What was to become of the member-states? Most of them owed their existence to the now defunct dynasties, and their *raison d'être* seemed to have gone with the princes. Moreover, the unitary trend had already been strong in the Hohenzollern Empire. All the more "modern" movements and institutions—political parties, trade unions, the labor movement, organizations of industrialists—were nation-wide rather than sectional. Because of this, and also because the predominant state, Prussia, had had a strongly anti-democratic influence, there was a tendency in 1919 to dismember Prussia, reduce the states to impotence, and establish the Republic as a unitary state. The age-old particularistic traditions and interests prevented this radical solution. The federal structure of the Reich was maintained. But, in contrast to the Bismarck

Constitution, the central government emerged with strong powers. First of all, it was given decisive jurisdictions. There remained hardly a field in which the Reich (this term denoting central government, as contrasted to that of the states, now called *Länder*, or, in the singular, *Land*), could not exercise legislative functions if it so desired. To the *Länder* there chiefly remained administration, since the traditional system of state execution of federal laws (p. 605) was maintained. But even here the federal government set up ever-new Reich administrations with their own federal bureaucracies (e.g., in the field of labor, economics, finance, and railways). Police and internal administration, justice, and education were the only important fields where *Länder* still retained governing functions.

The federal constitution, moreover, prescribed the internal structure of the government of the *Länder*: all had to be republics, with parliamentary government, and even with identical election systems. This did not mean, however, that *Länder* policies were always in agreement with Reich policies. Some *Land* governments were to the Right, some to the Left of the central government. This political differentiation, rather than any pronounced sectional differences, made the *Länder* politically important during the Weimar period. Thus Prussia, in direct contrast to her Empire temper, became the stronghold of the moderate Left, while Bavaria developed to the "right of center," offering protection to all kinds of anti-democratic groups, among them the young Hitler movement.

A strengthening of central power also resulted from the abolition of Prussian hegemony. There was no longer a strong, Prussian-dominated army, and what remained was Reich-controlled; there was no Emperor through whom Prussia could exercise influence; no *Bundesrat* in which Prussia ruled; and there was now a larger number of direct central administrations, little influenced by Prussian officials. The Reich was thus "de-Prussianized," and in Prussia itself there remained even less of the earlier spirit of Prussianism than in other units and in the Reich itself.

The rising power of central government was most impressive in the financial sphere. Where the old Reich had been dependent on the states,



the *Länder* now became dependent on the Reich; it now had its own major sources of income and, above all, the power to determine what sources should be its own, and what should belong to the states. Ever more taxes were thus pre-empted by the Reich, and the *Länder* were left struggling for residuary income in order to survive.

The Reich government also possessed strong powers of supervision and enforcement. Disputes between Reich and *Länder* were to be settled by an independent court of constitutional justice, but the Reich had also power to resort to "sanctions" against a recalcitrant *Land*. This power was much used, and abused, whenever a *Land* government became too "radical," especially radically leftist. In cases of "rightist deviation" the Reich was inclined to use milder methods.

The Federal Council (*Reichsrat*) was the organ through which *Länder* interests were to be safeguarded on the Reich level. Like its predecessor, the *Bundesrat*, it was composed of delegates instructed by the *Land* governments. Since government in the *Länder* was now parliamentary, the delegates represented governing parties rather than the states as such. Yet, in practice, they acted chiefly as bureaucrats trying to bring Reich interests into accordance with those of the *Länder*. The *Reichsrat's* suspensive veto over legislation, which the *Reichstag* could override by a two-thirds vote, was seldom used. The *Reichsrat* acted rather as a body preparing legislation, co-operating with the federal government on bills, and, after enactment, as co-ordinator between Reich legislation and state administration.

### Parliament and Its Powers

The old Empire had placed sovereignty in the princes, under Prussian leadership. The Weimar Constitution placed sovereignty in the people. This was its most conspicuous break with the old system. But how is a modern, large-scale nation to exercise sovereignty? The classical Continental system, as the Jacobins had developed it from Rousseau's ideas, is that of government by assembly. A representative body, issuing from general election and thus embodying the "general will," acts as mandatory of the

people; all other organs of government must be under its control.

### A MIXED SYSTEM

The French have always been inclined toward such a system (p. 310). The Germans, even at the time of Weimar, shrank from it because they feared that it would mean government by parties and party bosses. They therefore looked for a compromise. This can be seen most clearly in the way in which they tried to solve the crucial problem of modern democratic government, the relation between parliament and executive. This relationship had three or four basic types of development in the West: The American system of "presidential democracy" or "separation of powers"; the British system of government responsible to Parliament, but with the Cabinet having the power to dissolve Parliament; the system of parliamentarism *without* actual power of the Cabinet to dissolve Parliament (French Third Republic); and the Swiss system under which the executive always follows the instructions of Parliament and does not resign even in case of disagreement. Weimar chiefly followed the British system: The Cabinet was to be responsible to Parliament (*Reichstag*), which, in turn, could be dissolved by the Executive. In contrast to Britain, however, such parliamentarism in Germany, with its multiplicity of parties, involved the danger of Cabinet instability of the French type. The Weimar Constitution therefore sought to render the Executive strong and, to some extent, independent of Parliament; this constituted an American admixture. From the Swiss system were added certain devices of "direct democracy," under which the people, through plebiscites, were to participate in legislation to some extent. In practice this device was chiefly used for purposes of demagoguery, and infrequently for serious law-making. As the French know all too well, plebiscitary devices in societies without a strong tradition of direct democracy are liable to be exploited by extremist movements and would-be dictators.

### "REICHSTAG" AND PROPORTIONAL REPRESENTATION

Despite these restrictions, the *Reichstag* was the keystone of the arch. In it the "will of the

people" was to be reflected from the broadest basis of election. For the first time, women were given the right to vote. The voting age was lowered from 25 to 20. And, most important of all, election was by proportional representation, with each group of voters given an equal chance of being represented according to the voting strength received at the polls. Each 60,000 voters would elect one candidate from lists submitted by the parties in large election districts; whether one or the other party failed to gain a majority in the district was immaterial. Each party got as many seats as resulted from dividing its number of votes by 60,000. Even the left-over vote was utilized. Candidates were elected according to the sequence in which their names appeared on the party ticket.

This system has been attacked as faulty, sometimes as a main cause for the decline of the Republic. It is true that its virtue of representing relative party strength and political opinion more fairly than do other systems (which give political minorities less of a chance), was canceled out by its faults of favoring party bureaucracy, rendering the individual candidate a mere number on a list, embittering doctrinal dissensions, and making it easier for splinter groups to get representation in parliament. But all this was less new than it seemed: Germans even under the majority election system of the Empire had been used to voting "party" rather than for individual candidates. To blame Proportional Representation (PR) for the many parties of Weimar is even less justified, since the Empire knew about as many (and about the same) major parties, and splinter groups had little political influence under Weimar. Least of all can PR be made responsible for the rise of Nazism to power. Under PR, since they never got a majority at the polls, the Nazis never got a majority of the seats in parliament either, but a single-member system might well have given them such a majority when they had become the largest party. A theory which sees in the respective election systems the basis of all things political vastly overestimates the role that such technical devices play in the actual governance of men.

Thus elected for a period of four years, the *Reichstag* had comprehensive powers. It made

the laws, with full power of initiative, and adopted the budget; consented to treaties; made continuance in office of the Cabinet and each minister dependent on its confidence; had comprehensive powers of organizing itself and its committees (including broad powers of investigation); and guaranteed far-reaching immunities to its members (widely abused by radical groups for libel and slander). It was thus the center of political power. But this power was not unlimited. It was little checked by the devices of direct democracy; somewhat more by the powers of the *Reichsrat*; and most of all by those of the President, and of Government when availing itself of presidential powers.

### *The Executive Power*

#### THE CABINET

Use, or rather misuse, of executive power proved to be the undoing of the Weimar Republic. This shows that social forces are more important than constitutional provisions. For seemingly the constitutional position of the Weimar Executive (the Reich President and the Reich Government, consisting of the Reich Chancellor and Cabinet ministers) did not deviate much from the established pattern of parliamentarism. Chancellor and ministers were responsible to the *Reichstag*. The President's powers included representation of the Reich in foreign affairs, conclusion of treaties (with consent of the *Reichstag*), appointment and dismissal of Reich officials, supreme command of the armed forces, and—the very *raison d'être* of a presidency in a republic—appointment (and dismissal) of Chancellor and ministers. These powers, however, were put under the indirect control of the *Reichstag* through the provision that all presidential measures needed the countersignature of the Chancellor or a minister. Since these persons were responsible to Parliament for such consent, presidential measures were supposedly always within the range of parliamentary control.

Actually, during the longer time of the Republic, and particularly in the "normal" period of 1924-1929, the system functioned approximately as it was supposed to. The President used his powers sparingly and submitted in political

matters generally to the Cabinet. Governmental business was carried on by the Cabinet under the Reich Chancellor. Until 1930, the Cabinet system functioned approximately as it did in France. The Cabinet depended on coalitions of parties which, among them, had a majority in the *Reichstag*. Because of the difficulty of forming a smoothly working coalition, the Cabinet was frequently composed of parties representing only a minority, backed by additional forces in Parliament; or, occasionally, it was composed of so-called experts relying on a more or less shaky parliamentary support. As in France, Cabinet policies were based on uneasy agreements between coalition partners; the Cabinet would be an alliance rather than a coherent unit, and would fall through internal dissensions more often than through outright defeat by parliamentary opposition. Cabinets therefore usually did not last long; but in personnel and composition the new Cabinet would often resemble the preceding one. The Chancellor, no longer the autocrat as in imperial times, was supposed under the constitution to "determine the general lines" of the government's policies, but in practice he hardly even did that. His main concern was to keep the coalition going. It was government by compromise and, often, horse-trading, rather than by uniform direction.

#### PARTIES AND BUREAUCRACY

Real decisions were made in the party caucuses. The party bureaucracy, in contrast to the old Reich, was now in possession of the political key positions. But unlike their British counterparts, those manning the executive high command were recruited, not from and through parliament as a school for political leadership, but rather directly from the ranks of party functionaries or related interest groups, such as trade unions and employers associations. "The people" thus had little chance through elections to influence their choice. Great leaders, parliamentary or otherwise, were conspicuously absent. It was, by and large, honest government, but drab and colorless, without vision or a coherent and long-range program, and unable to inspire enthusiasm. Moreover, it owed much of its efficiency to the permanent officialdom working under it. The conservative influence of the bureaucracy, from the ministries to the local

level, was very great. Party leaders holding posts of ministers were generally inexpert, and therefore dependent upon the established civil service. It is true that the governing parties sought to fill the service with appointees of their political coloring. But civil servants without the required training and without the usual expert attitude were rare. By and large the "unpolitical," i.e., conservative-reactionary outlook prevailed. With certain exceptions (the Prussian police was one) the bureaucracy was not democratized. This would have required the gradual infusion of new blood, the elimination of at least the most stubborn reactionary officials (even if "expert"), and, above all, the opening up of career positions to merit. Far-sighted and vigorous parliamentary and party leadership, courageous enough to meet the opposition of the caste and its allies squarely, was lacking. The fetish of efficiency, never to be impaired even for the sake of reform (just as it later prevented the Western Allies from democratizing the German bureaucracy), prevented Weimar from providing a new basis for a functioning democracy. As the original Weimar groups found it increasingly difficult to compromise their differences about labor, economics, and so forth, the bureaucrats stepped in and in fact decided issues. And whenever things did *not* work out, it was easy for the officials to shift the blame to the party politicians, while preserving their own credit as guardians of the national interest. When the system collapsed, their prestige was thus unimpaired and they were ready and able to serve new masters.

#### THE PRESIDENCY

How, under this half-parliamentary, half-bureaucratic system, political authoritarianism eventually re-emerged victorious is chiefly the story of the role played by the Weimar Presidency. Even during the period of constitutional normalcy, until 1930, the President was considerably more influential than his Western-European counterparts (the French President or the British king). The absence of a two-party system and the necessity of forming coalition cabinets gave him leeway in the choice of prospective chancellors. He sometimes even tried to determine the type of coalition to be formed, and its governmental program. The relatively

small professional army (*Reichswehr*) which the Treaty of Versailles allowed Germany was supposedly under the civilian control of Cabinet ministers of defense responsible to Parliament. Actually, defense ministers, backed by the President, who was supreme commander, evaded parliamentary supervision. Thus the old Prussian tradition, under which army affairs were independent of popular control, prevailed, and illegal rearmament was carried on without the parties being able to do much about it. The courts, which were otherwise impartial, connived by convicting antimilitarists of "treason." All this was possible because of the widespread German desire for a President "above parties and interest groups." His prestige really protected authoritarian tendencies.

Two constitutional provisions contributed to this development. One was that the President should be elected by direct popular vote and for a period longer than that of the *Reichstag* (namely, seven years); the other concerned his emergency powers. Popular election meant giving the President a mandate independent from that of parliament. This was dangerous in a country like Germany, where the executive traditionally represented antidemocratic groups and a permanent bureaucracy rather than progressive popular forces. While in America the Presidency often represents the "commonweal," as opposed to "special interests" entrenched in Congress, the election of a German President could be interpreted as the popular sanction of conservatism and nationalism. This was particularly true after the advent of Paul von Hindenburg (1847-1934), the old World War I hero, whose election to the Presidency in 1925 proved that even defeated old soldiers neither "die nor fade away." Although he waited five years before he showed his real authoritarian predilections, little incidents made clear at once the difference between his attitude and that of a typical head of state in a Western country. For instance, when certain Leftist parties had initiated a popular vote on the expropriation of the former princes' fortunes in favor of the Reich, Hindenburg expressed his opposition in an open letter. Compare this public intervention in favor of one group of parties with British custom, under which the king may

not even marry without the consent of the Cabinet.

#### ARTICLE 48 AND PRESIDENTIAL DICTATORSHIP

Many critics believe that article 48 of the Weimar Constitution, which provided the President with emergency powers in case of constitutional deadlock, opened the way for dictatorship. In fact, this article was used in the late years of the Republic to sidetrack parliamentary government in a way never attempted in a country like Britain since the days of the Stuarts. But the existence of an emergency provision meant less than the circumstances that tempted its misuse. No government can carry on without some kind of emergency powers, even though, where a written constitution does not mention them (e.g., the martial law powers of the American Presidency), they may exist only "by interpretation." Article 48 was even designed to prevent the misuse of such powers. Every emergency measure was to be communicated immediately to the *Reichstag*, which had the power to revoke it; it was to be a temporary suspension of ordinary constitutional processes in order to save the constitution as such.

But, as might be expected from the German concept of executive powers, article 48 was broadly interpreted from the outset. Instead of being used as a safety valve, it served as an easy way out of ordinary difficulties. "Economic" or "financial emergencies" were construed as sufficient reasons to issue decrees on the basis of article 48 instead of resorting to the enactment of ordinary laws. The time came when the President, in such an event, failed to obtain subsequent parliamentary approval for his measures. According to the Constitution he should then have yielded to the *Reichstag*. But the power of dissolution provided him with a way to undermine the Constitution. If he found a Chancellor ready to back him and defy the *Reichstag* majority (shades of William I and Bismarck!), he might dissolve Parliament and appeal to the people instead of canceling his emergency measures. What if the election failed to provide him with a majority? Could he keep "his" Chancellor in office and dissolve the newly elected *Reichstag* again? This obviously would

mean flouting the will of the people and the sense of the Constitution, but that is what happened at the final stages of the Weimar Republic. This points up the contrast with Western democratic processes. It is customary to contrast the tremendous powers which the British king possesses in theory with the little he may do in practice (pp. 25, 30-31); in Germany, the contrast was between the chief executive's theoretical limitations and his actual powers.

### *Fundamental Rights*

The fact that executive decrees could do away with the very foundations of the Weimar Constitution was the more remarkable in view of the elaborate catalog of "fundamental rights and duties" which formed the entire second part of the Constitution and was meant to protect individuals and groups against the state.

#### CIVIL AND POLITICAL RIGHTS

The system really contained two different types of provisions: One, the traditional liberal rights and freedoms, the other the so-called "social rights," or principles for the solution of social, economic, cultural, and other problems. The first group included all the customary rights, freedom from arbitrary arrest, freedom of opinion and the press, of association and assembly, and equality before the law. Actually, however, these freedoms were not protected as they are in the United States and elsewhere. The Executive, under article 48, could suspend a number of these freedoms, and above all they were generally not protected against infraction by "law." A "reservation in favor of the legislator" (*Gesetzesvorbehalt*), added to most of these rights, meant that ordinary legislation, federal or *Länder*, past or future, general or special, could "define," limit, even suspend these rights. Thus, in practice, this catalog amounted to little more than a general program, to be implemented or not by legislation. In "normal" times, these rights were respected, as they had already been to some extent under the Empire. Unfortunately there was little guarantee of respect for individual freedoms and rights of minorities in what became more and more

"normal," namely "abnormal" times. Liberalism then vanished before "necessity of state."

#### SOCIAL RIGHTS

The "social rights" part of the Weimar Constitution is a prime illustration of the purely formal nature of Weimar compromises. The chief problems with which the Republic was faced were: socialism or private capitalism; secularism or church influence; large estates or land reform. Since the Constitution was drafted by a coalition of opposed interests, their agreements were merely verbal and their compromises were really deferred decisions.

Thus, in the economic field, the Reich was accorded the right to nationalize industries and the workers were assured of the right to participate in the regulation not only of labor conditions but of general economic and production issues. On the other hand, private property was guaranteed, especially against expropriation without full compensation. Separation of state and church was adopted in principle but churches which had been recognized as "corporations of public law" were to continue to enjoy special financial (i.e., subsidies through taxation) or educational prerogatives. The civil service system was to be reformed through a federal law guaranteeing equal access to public office; but the "well-established rights" of officials were to remain inviolable. In practice all of this worked in favor of the *status quo*. Since the reform articles were largely programmatic and the parties that advocated change were unable to legislate such change, most of the provisions which protected existing rights and situations prevailed. In the end, there was no socialism through nationalization of industries, but rather private capitalism with some admixture of social reform; no workers' participation in planning or regulation of economic affairs, but only participation in the regulation of labor conditions through factory councils. There was no fundamental reform of the civil service system; no agrarian reform to speak of; no break-up or control of cartels; and no curtailment of the privileges of the recognized churches. Nothing had been solved; basic conflicts remained.

## Social and Political Forces

### FAVORED AND DISFAVORED GROUPS

During the more peaceful middle period of the Republic it seemed as if these conflicts might yet be solved gradually through compromise. In a period of prosperity (whose artificial nature, based mainly on American loans, was little apparent at the time) the ruling groups in the middle classes accepted the constitutional framework; so did, at least for the time being, bureaucracy and military. Even the *Junkers* were appeased through large-scale government subsidies for their bankrupt estates. The conservatives had reason to lie low temporarily. During the turbulent initial period of the Republic, from 1919 to 1923, they had attempted to join with radical Rightist adventurers to overthrow the regime by force; twice such attempts were thwarted, once through a general strike called by the trade unions. Even at the height of the confusion, when currency inflation was at its worst and the French occupied the Ruhr, the nationalists had not been able to wrest control from the republicans. Thereafter, the *Reichswehr* leadership realized the danger of provoking a civil war in which the army would be a party. But the period of "normalcy" (1924-30) was, nevertheless, heir to grave weaknesses of the preceding period. While important sections of the population shared the fruits of a revived economy, others lost out or were disregarded. The system of the middle twenties was based on favors to industry, big landowners, and industrial workers alike. High tariffs, subsidies, and big profits (based in part on price fixing by powerful combines or cartels of industry) went hand in hand with an improvement of labor conditions through collective bargaining, unemployment insurance, codification of labor law with procedures of judicial settlement, conciliation, and arbitration. But the lower middle classes, the professions, the small savers, had lost their holdings during the galloping inflation of 1920-23, a vanishing of the value of money compared with which the present inflation in the United States is nothing. Little was done to help those who lost out in the process. Their savings, chiefly, had enabled

them to live better than the workers and to give their children a higher education. Now they were on the financial level of the proletariat. Yet they refused to consider themselves proletarians. They became hostile, frustrated, as did many small peasants, small businessmen, artisans, and shopkeepers.

### RIGHTIST ACTIVISM

Another inheritance from the years of post-war turmoil was nationalist "activism." The defeat of the Communists in 1918-19 was credited to Rightist action, rather than to the feeble Republic. Subsequently, the nationalist radicals became the self-styled saviors of the national interest whenever anybody whom they considered "treacherous" appeared on the scene. They organized vigilantes, "tried" Republican statesmen and others in kangaroo courts, and assassinated them. In ensuing court trials the judiciary made mockery of justice by letting murderers get away with murder, and intimating that "not the killer but the victim was guilty." Rightist "patriotism" was allowed to stand above Republican legality. The damage done by Rightist activism and Republican timidity was lasting.

### The Constitutional Crisis

The social and political harmony of Weimar ended abruptly when depression struck Germany at the end of 1929. With production shrinking and demands for state support rising, the agreement between big business and organized labor collapsed. Capitalism, unwilling to make the necessary sacrifices, did not let the state intervene in order to provide employment. By 1932 there were 10 million unemployed in a nation of 65 million. Even at the height of depression the orthodoxy of the balanced budget was preserved. While America, the classical country of free enterprise, under depression conditions turned to pump priming and a New Deal, Germany, a traditionally interventionist country, failed to do so. Thus the German masses were abandoned to the pied piper.

The economic crisis created the political and constitutional crisis. In the face of mounting radicalism on the Right (Nazis) and on the



Left (Communists), the upper middle classes turned Right. Themselves responsible for the conditions which made radicals of the workers, and particularly of the unemployed, they now believed that the way to cope with Communism was by force rather than by social aid and reform. Thus they denounced even moderately progressive and mildly liberal forces as "Red," instead of co-operating with them to stem the flood. They calculated that only by establishing a strong authoritarian government could they now hope to preserve the existing system of property. They desired to rule with the help of bureaucracy and military. Instead, they opened the gates to the flood of Nazi totalitarianism. Hindenburg, dismissing a Social Democratic Chancellor who commanded a majority, and appointing a Center Party leader of conservative leanings (Brüning) in his stead, inaugurated the system of "presidential government" (1930). This was the sign that the authoritarian groups now hoped to rule as under the Empire, with a President-Emperor. But the election of 1930 showed that the masses in distress were no longer under their control; they had turned to more radical movements. Nazi representation rose from 12 to 107, that of Communists from 54 to 77. Yet there still existed ample opportunity to form a common front against these two extreme groups. Only for three months, during the three years from 1930 to 1933, namely after the July election of 1932, did Nazis and Communists combined have a so-called "negative majority" which could have stalled the parliamentary machinery. But the conservatives were unwilling to admit defeat and join forces with the republicans. They now ruled by decree, on the basis of article 48, and the Social Democrats, still (with 143 deputies) the strongest party, backed them as the lesser evil.

Thus Chancellor Brüning even as late as 1932 had some kind of a majority, although he disdainfully refused to consider parliament the real fountainhead of his authority. His authority, according to the new doctrine of the presidential system, lay in the confidence of the President. But when he was unable to persuade the Nazis to join the authoritarian regime, he, in turn, was suddenly dismissed by Hindenburg, and a *Junker*, von Papen, was appointed.

His "cabinet of barons," composed exclusively of German Nationalists, had not the slightest chance of majority-backing in Parliament. There followed the tragicomedy of dissolutions and new elections, with the monarchist-feudal group temporarily in the saddle, trying to ward off revolution from Left and Right. The extreme groups organized themselves as "states within the state," as "movements" with their own doctrines and loyalties, their own organs of opinion, bureaucracies, and even armed paramilitary formations, with emblems, slogans, uniforms of their own. To the Right were the Nazis, with brownshirts and Swastika; to the Left the Communists, with "Red Front" organization and Hammer and Sickle. On the defensive were the conservative nationalists, with a "Steel Helmet" veterans' organization and the imperial black-white-red flag symbol; and, belatedly and timidly, the Social Democrats and other republicans with their "Reich Banner" organization featuring, for once, the black-red-gold Weimar colors.

In the face of this pluralism the state was ever less able to control the antagonistic forces. As territorial powers in olden times had disrupted Germany, political factions now seemed to lead it to disintegration. In the end, the extreme of pluralist dissension led to an equally extreme totalitarian concentration of power, with the most militant among the factions, the Nazis, transforming itself into the "total state." But for the time being, in 1932, an atmosphere of civil war prevailed. In the daily clashes between the armed gangs, the Nazis, usually the attackers, were openly favored by the authorities, especially the courts. The only force potentially still siding with the republican Left was the Prussian police. The Presidential Cabinet, "deposing" the legitimate Prussian government with the help of article 48, got control of this last bulwark of democracy. This outrage might have aroused the non-Nazi and non-Communist masses against the dictatorship, but their leaders instead appealed to the Constitutional Court. Industrialists, *Junkers*, generals, and officials on their part, while at all times ready to fight Communists and republicans, were not ready to defend their own rule against what they called "the national opposition." Thus they in-



duced Hindenburg<sup>2</sup> to dismiss his last Chancellor, and to appoint Hitler. The 30th of January 1933, a day as fateful for Germany as it was for the world, was the end of "Weimar." It was not, as the conservatives hoped, a return to "Potsdam." No place-name of German glory, cultural or military, can be associated with what now was to come, only the badge of shame of Dachau and Auschwitz, the "extermination camps."

### *The Downfall of the Regime: The Question of Responsibilities*

To assess the merits of the Weimar system and account for its failure is still of more than historical concern. The Weimar period provided the only parliamentary-democratic experience on which present German democracy can build. This accounts for the strange impression of "we have seen all this before" which so often strikes the student of present West German conditions (just as study of Eastern Germany strikes one as having "seen it all" during the Nazi period). Moreover, the problems which confronted Weimar Germany are not merely German problems. Many of them seem to confront any advanced industrial nation which tries to solve the burning questions of our time, particularly those of capitalism and socialism, through progressive democracy. A crucial example is how to defend democracy effectively against totalitarian "fifth columns" without destroying the bases of freedom itself.

#### STRUCTURAL SHORTCOMINGS

In dealing with causes and responsibilities for failure one must distinguish between the more technical-structural shortcomings of the Weimar system of government, and the underlying political, social, and economic factors. Among structural-constitutional shortcomings the unresolved relationship between parliamentary and presidential authority was perhaps the major one. This division of authority was not harmful so long as the forces and interests behind both were broadly identical, i.e., until 1930. It led to disaster when this identity ceased.

<sup>2</sup> The aged President at this time relied heavily on the advice of his son, jokingly referred to as "the son *un-pro-*vided for by the Constitution."

Even in the United States, the classical example of the separation of executive and legislature, there is a danger that the system may fail whenever executive and congressional majority are not of the same party. In Germany, in this conflict, the executive, which had the backing of the military, prevailed. It is important to remember that even the Nazis did not gain control through votes and propaganda alone, any more than they did through use of force. They succeeded only when power was handed over to them by the President.

The decline of the Weimar system has been attributed to a number of additional structural shortcomings, but in a curiously contradictory fashion. It is alleged, for instance, that too much or too little attention was given to civil rights and liberties; that political parties were too powerful, or that the executive—chiefly through article 48—enjoyed too much power. But these allegations will not really bear inspection. If it is charged that the Weimar Constitution granted too much liberty to political enemies of the regime, we find that in reality it was the unwillingness rather than any constitutional inability of the Republic to defend itself which helped the Nazis to rise to power. It knew how to defend itself effectively against its leftist enemies, the Communists. Or, if it is charged that article 48 was responsible for the establishment of authoritarian government after 1930, it would be legalistic indeed to assume that antidemocratic forces would not have found ways to gain power even in the absence of such a constitutional provision. Under conditions of crisis even Britain has known doctrines of "residual powers of kingship" and of the king as "guardian of the constitution" (p. 126). A similar "guardian" theory was suggested for the Weimar Presidency (by Carl Schmitt) and might have served as a substitute for any written constitutional authorization.

#### POLITICAL RESPONSIBILITIES

Real responsibility would seem rather to be with social groups and political forces, and especially with their leaders. In a stronger democratic society the citizen has some influence over developments and knows how to use that influence on those in leading positions. In a society which, like the German, was governed

by the habits of authoritarianism, the masses were inactive and inclined to follow leaders. There were in leading positions of Weimar Germany some who, against great odds, tried to strengthen democratic and liberal attitudes. But in the main the cultural and intellectual, political and economic elites were either self-seeking or filled with a blind, antidemocratic, and generally authoritarian doctrinairism. This was true regardless of party affiliation.

#### COMMUNISTS

The Communists were chiefly responsible for splitting what might have been a united democratic labor movement into two warring factions. The Communists' insistence on control made co-operation with them impossible. Their utopianism consistently mistook "the fourth month of revolutionary pregnancy for the ninth." Their illusion of having the backing of the masses led them to denounce all others as "fascists," particularly the Social Democrats ("social fascists"). Not even at the height of the depression were they strong enough to take over, but they *were* strong enough to provoke, in real fascism, "the counterrevolution against the revolution that never took place." Their hold over leftist intellectuals was at times impressive and contributed to the dearth of intellectual leaders among the non-Communist Left. "Unmasking" democracy as veiled fascism, not ready to join forces with anti-fascists even after 1930, they in effect helped to usher in that real fascism whose difference from democracy they noticed when it was too late.

#### SOCIALISTS

The moderate socialists, the trade union heads, and so forth, sinned rather through omission. By and large they were honestly devoted to democratic principles. But they were not leaders. Even in their own organizations, party or union, they were bureaucratic bosses rather than leaders of associations controlled by the membership. Their lack of militancy, their timidity and legalism were striking. Theirs was the main responsibility for the failure to insist on basic social reforms when the progressive tide was still high. It was doubtful whether they could have socialized industry, but they might well have demanded reforms of the cartel

system, broken up the *Junker* estates, democratized the civil service, *Reichswehr*, school system, and judiciary. Instead, they became concerned with petty favors, posts, and similar vested interests. There was no broad new (or old) vision commanding the allegiance of the young generation. When the danger from the Right increased, there was no sense of what the struggle for power demands, no readiness to take "calculated risks." Socialists, by and large, committed the same mistakes as did the statesmen of the Western democracies when Hitler was in power. They were not traitors, as the Communists charged, but self-betrayed. It is significant that the largest democratic group under Weimar did not produce one leading personality of the caliber of the Center Party's Matthias Erzberger, the Democrats' Walther Rathenau, or the People's Party's Gustav Stresemann.

#### CATHOLICS

Catholic leaders had similar shortcomings. In the initial period, under the influence of their workers' groups, they developed some progressive zeal, but later they became representatives of an "interest party" like others, although the interest was religious-cultural rather than economic. Democracy for them was an instrument rather than an aim, discarded when its value as a tool became doubtful. Then, political Catholicism fell back into the authoritarian groove which, after all, is in conformity not only with German but also with Church tradition. While it supplied the Republic with some of its foremost democratic leaders in its early stages, it also supplied some of its gravediggers (Brüning, von Papen). Eventually political Catholicism voted Hitler into total power, thereby committing political suicide. This was shortly before the Vatican concluded its Concordat with Hitler.

#### CONSERVATIVES

Outside the Communist, Socialist, and Catholic elites most of the German leadership under Weimar remained reactionary. A few more progressive leaders of the middle classes soon became officers without an army. Most of those who had joined the liberal-democratic camp deserted it, longing for the "good old

times" before World War I and despising the less glamorous, defeat-born Republic. They had forgotten everything and learned nothing. Theirs was a great responsibility as social and intellectual leaders of the middle classes, as teachers and professors, pastors and journalists. By ridiculing the new system instead of attacking it openly, they undermined any germinating loyalty to democracy, stifled any incipient Republican devotion and enthusiasm. They advertised "patriotism" as they understood it: a mixture of old-fashioned authoritarianism, defense of vested interest, and nationalism. Their final effect on the people, especially on the young and the destitute, was to alienate them from progressive ideals, thus leaving a void which was filled by a more radical and more determined philosophy. The weakness of their own reactionary credo was amply revealed when most of them failed to live up to it and instead became hirelings of the Nazis. Among all those who contributed to the downfall of Weimar theirs was perhaps the gravest guilt.

#### FOREIGN POWERS

In assaying responsibilities, leaders of other countries should not be entirely forgotten. It is true that Germans, today as yesterday, have been fond of trying to shift the major responsibility for the fall of Weimar and the rise of Hitlerism onto foreigners. This cannot provide Germans with an alibi; yet the responsibility of the other powers cannot be denied. Revengefulness and hatred prevented them from encouraging the fledgling Republic and its democratic forces when there was still time; blindness and plain cowardice induced them to withdraw when totalitarianism was in the saddle. Their intransigence kept the Republic in isolation and denied it the success in foreign policy without which it could not gain prestige at home. When a few concessions were made toward the end of the Weimar period, it was too little and, above all, too late. The appeasement later granted to the Nazis might have saved the Republic, but it now simply served a Hitler to prepare for his war. The nationalism of the victors provoked that of the vanquished, and Briand and Stresemann, working for German-French reconciliation in the twenties, could

never entirely make up for what had been done in the crucial initial period. From the list of the "gravediggers" of Weimar the names of foreign statesmen like Poincaré can unfortunately not be left out.

It is true that much of what has been said about Germany applies to other countries, and yet they did not produce a Hitler. The split of the workers class, the drab and sometimes sordid ways of parliamentarism and party politics, the authoritarian tendencies of the middle classes, the failure of the intelligentsia to provide progressive leadership—all these were not confined to Weimar Germany. Neither were those more general modern trends which, beyond all "responsibilities," work against liberal democracy: oligarchic tendencies of a mass society which favor boss rule, decree legislation, and concentration of controls in the executive; modern relativism and skepticism which destroy traditional values and old religious and moral standards without providing new ones; and the failure of modern society to provide the masses with the ability to distinguish between genuine political values and fake allurements. If all this is true, there remains the question: Why did Germany, and not France for instance, produce Nazism? The factors mentioned above may account for the weakness and failure of German democracy; they do not explain the rise of a totalitarian movement. At most, they provided a basis on which such movement *could* rise. That it *did* arise was due to something in addition: the emergence of a genius (an evil one, to be sure), who knew how to fashion a new creed and a mass movement under his leadership.

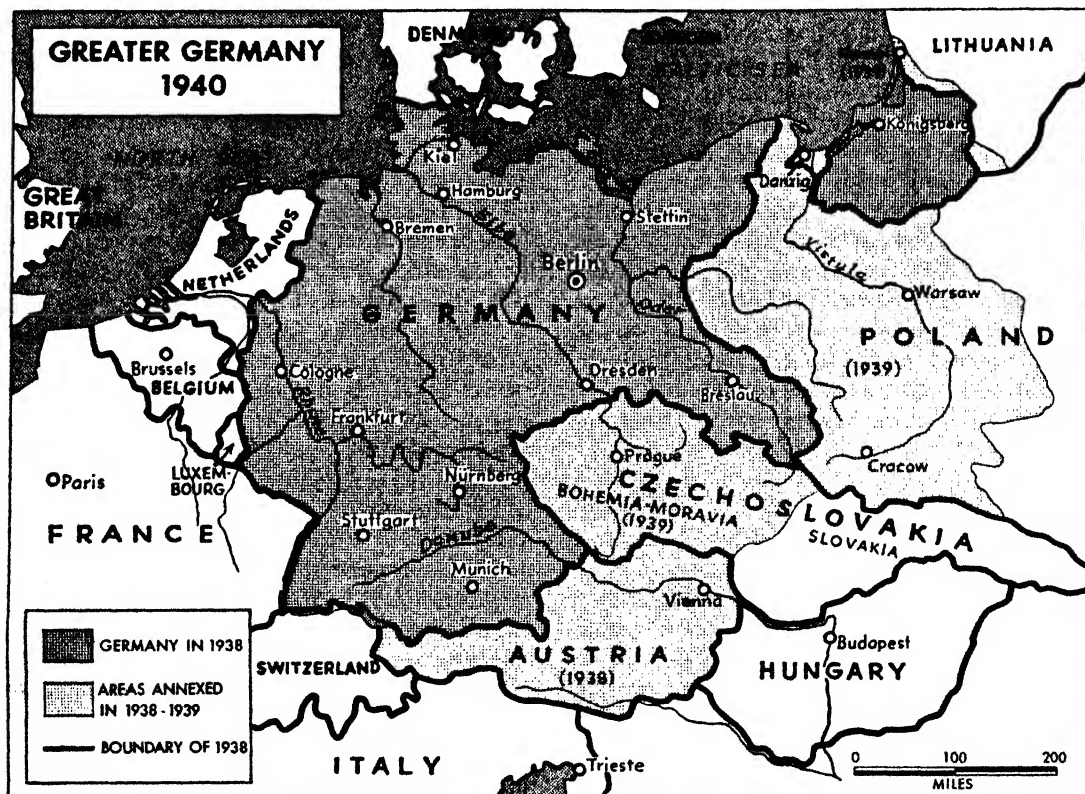
#### IV. GERMANY AS A DICTATORSHIP

##### *The Nazi Movement: Its Character and Its Rise*

Even today there are probably few people who can approach the topic of National Socialism entirely without emotion. Too profoundly has the fate of all of us been influenced by the rise of this movement and by the war it provoked. But many now believe it to be a closed case. To them, Nazism is dead and buried to-

gether with its unlamented leaders. Today, the problem of Fascism (in the broader sense, which includes Nazism) is overshadowed by the more urgent issue of Communism. But Fascism is the other totalitarian alternative to democracy. It has always owed its victory to the fear which Communism, where it was strong,

"respectable" or even normal occupation. After his failure to graduate from high school, a Vienna art school refused to accept him. To the end of his days Hitler was convinced that he had the talent and the temperament of an artist; this conviction led him to despise the "better," educated people who had entered upon civil



provoked in non-Communists. Nazism was merely the German form of a world-wide possibility, and it is exactly the present preoccupation of the non-Communist world with the danger of Communism which might bring Fascism, inadvertently, back to life, in Germany or elsewhere, despite its defeat in World War II.

#### ADOLF HITLER

Adolf Hitler rose from complete obscurity. The son of a petty Austrian official, who had dreamt of giving him a higher education, he flunked every chance of gaining access to a

careers through normal channels, as well as the "expert," who would set his solid knowledge against Hitler's "intuition." In his youth, without education, degree, or training, Hitler sank down into the underworld, the lower depths of bums, beggars, vagrants, and criminals, working occasionally but not regularly, envying those who did, and thus accumulating a tremendous store of hatred and frustration.

While ordinarily such frustration might lead a man of strong will to an egocentric career, for instance in crime, Hitler identified his impulses with a cause. It was the cause of a group which, in his imagination, was equally

victimized, namely that of the Germans as a nation, or a "race." In Austria, he saw them outnumbered and outruled by non-German nationalities and by Jews; in the Reich they seemed to him threatened by foreign enemies intent on destroying German might. To him as to many, World War I was the way out of individual frustration. He enlisted in the German army; his life was now merged with a cause. But the defeat of Germany threw him back into a world in which he, as an individual, was useless, and in which the "Aryans" had become the victims of their enemies. He would not admit that his cause had been defeated in honest battle. In his eyes, the Germans, like the Nibelungen of old, had been betrayed by enemy propaganda and by the home-front's "stab in the back." The front-line soldier had been betrayed by Jews and Marxists. Since this was a world which did not appeal to Hitler, he had to change it; eventually, he had even to "repeat" the war, as would the boy who does not want his first defeat to "count." Demobilized, he decided to enter politics.

There were many of his type in Germany at that time, people who could not adapt themselves to life in an ordered society and to whom the disordered state of German society offered a chance to become adventurers in politics. Innumerable "folkish" groups were founded, usually by former army officers, many engaging in terroristic activities, all clothed in some mystical nationalist or racist philosophy, all quarreling endlessly among themselves about fine points of their creed. Hitler joined one of them. He discovered his gift as an orator. Unlike most leaders in the Weimar period, he knew how to stir the people's imagination and enthusiasm. He soon became the leader of the "National Socialist German Workers Party," or NSDAP. It actually was not a "workers'" party, not a "party" in the common sense, and hardly "socialist." But the name did not matter. What mattered was that Hitler had found a platform for his political career. In contrast to minor rabble-rousers, he combined persistence with an ability to learn from experience. He did not make the same mistake twice. Defeated in his attempt to attain power by uprising (his "Beer Hall revolt" at Munich, 1923), he realized the uselessness of direct attack on established au-

thorities. From now on his movement would pretend to be "legal"; no longer would it stand for the overthrow of government by violence. On the other hand, it would be unlike the many ordinary parties which merely competed for votes and seats in parliaments and cabinets. Hitler now would employ entirely novel tactics. He would capture the state from within, through the organization of a "movement" with a political religion.

#### ORGANIZATION AND RISE OF THE MOVEMENT

The story of Nazism's rise is still of prime importance because it is thus far the only instance in which a totalitarian movement gained power in a long drawn-out battle with an existing regime. Italian Fascism gained it at an early point. Bolshevism achieved victory after a scant few months' battling of a hardly **existent** democracy. Spanish Fascism fought a real war but not as an organized political movement. Nazism, however, battled Weimar throughout the entire existence of the Republic. The fact that most of the serious leaders and groups in Germany failed to take it seriously added to its strength. Hitler, drawing his devastating energy from a capacity to intoxicate himself and the masses by his self-fabricated doctrine, knew how to exploit such blindness.

From 1924 to 1930, the period of normalcy when most of the other ultra-nationalist groups were vanishing, Hitler devoted his efforts to building up the iron cadre of an organization. Copying techniques freely from Bolshevism, the Catholic Church, and above all from Mussolini's Fascism, he managed to reorganize the NSDAP on the basis of authoritarianism. He established the program of the Party as uncontested and henceforth uncontestable dogma; he established himself as the infallible "leader"; he disciplined the rank and file; he selected a group of henchmen from among those who unconditionally surrendered to his authority, and relentlessly weeded out those who showed independence of mind or personal ambitions. Once he had laid down the line there was no further argument or discussion. Principles of parliamentary democracy, such as voting, election of party functionaries, accountability to the membership, were outlawed in favor of the "leadership principle." Hitler further proceeded

to establish a whole hierarchy of ranks in the Party, each member deriving his status ultimately from him. He established special formations within the Party, such as the paramilitary Storm Troopers (SA), groups of brown-shirted, high-booted hoodlums specially selected to "defend" the movement from its political enemies. They were to provoke opponents, break up their meetings, engage in brawls and street fighting, all this in order to capture the attention of the public and to demoralize other groups through "propaganda by violence." Finally, Hitler established the doctrine of the movement, the philosophy which was to guide it in its actions and to serve as basis for its propaganda.

#### THE NAZI DOCTRINE

Ours is an age of political "religions," of messianic creeds in the field of politics. The individual, lost in the mass, in the organization, in the state, in world wars and depressions, despairs of understanding his condition. Rational science is no longer able to explain it in simple terms. He thus tends to fall victim to creeds which offer easy explanations and seemingly firm values. Marxism, which started as a rational interpretation, has become a "creed" in its present form of Communist mass doctrine. Nazi doctrine did not even start out as an attempt to explain the world in rational terms. It was conceived as, and intended to be, irrational "myth." Hitler, who was no original thinker, presented portions of that doctrine in his rambling and ranting *Mein Kampf*; other portions were added by Alfred Rosenberg, the "philosopher" of the movement, in a book which he frankly called the "Myth of the Twentieth Century." Its main ingredients were familiar. They consisted of Racialism, Social Darwinism, Political Romanticism—a typical German "total" world-view. It was an *ersatz* education for the half-educated by a non-educated would-be messiah.

According to this myth, all world history is the struggle for survival and domination on the part of "races." There are higher and lower races. Only the former, by subjugating the latter, are able to create "culture." All high civilizations have been created by a superior racial group variously referred to as "Nordic,"

"Aryan," or "Germanic." Thus, Greek and Roman civilizations were founded by tribes of Nordic stock which had migrated to Greece and Italy. But the superior, culture-creating minority is ever threatened with degeneration, especially through racial mixture with the masses of inferior breed whom they enslave. The fall of Aryan empires, and their cultures, has always been due to loss of racial purity. This, it is claimed, happened to those Germanic tribes which, in the age of Migrations, went South, there to be swallowed up by indigenous populations. But others became the founders of new states: Vikings founded Russia; Franks, France; Saxons, England. Germany itself scattered its forces instead of concentrating on the job of founding a strong state in central and eastern Europe. Its ancient leaders, princes and nobility, degenerated; they imitated foreign ways and neglected the interest of the German racial community.

Subsequently the Germans encountered an even more mortal danger: The deadly enemy of all superior races, according to the Nazi myth, is a racial group sometimes characterized as "counterrace," the Jews. Culturally uncreative, and unable to establish their own state, the Jews, dispersed among the nations, are pictured as trying to destroy the inner strength of the peoples in order eventually to establish their own rule over the world. In this conspiratorial scheme they proceed with devilish cunning. To sap the strength of nations they not only intermingle with them to "spoil their blood," but above all, they become bearers of "ideas of disintegration": To soften up organized communities, they preach individual rights, rule of law, checks and balances; they advocate formal democracy with its "rule of the numbers," behind which looms their own rule. For, according to the Nazis, liberal democracy means either plutocracy, i.e., Jewish economic exploitation of the Aryan, or "Jewish" Marxism, which divides the nations by preaching class struggle and results in "Bolshevism," the victory of the Jew-led proletarian masses. In either case it is World Jewry that triumphs.

Germany, as Hitler saw it in the twenties, was the country on which Jewry was concentrating. Acting through plutocratic capitalism ("Wall Street") and Marxist socialism ("Mos-



cow"), it was attacking what remained of inner strength in the German people, utilizing all imaginable divisive and disintegrating influences—liberalism, pacifism, internationalism, humanitarianism, or even political Catholicism. But counterforces must needs reassert themselves. Led by a liberator, so Hitler predicted, Germany would establish its "Third Reich." The First, *medieval*, Reich went astray in foreign ventures; the Second, *Hohenzollern*, Reich was destroyed by inner and external enemies; Weimar was not honored with a separate number, being the anti-Reich, the alien, corrupt "system" of Jews and Marxists. This Third Reich would be a genuine "people's community," led by an elite of the best who are entitled to rule in the name and for the benefit of all racial comrades. In this community the welfare of the whole would be the guiding principle, and the state as such would be subordinated to the interests of the *Volks*. In the new state, power must be concentrated in the hands of a leader, who acts as trustee of the entire community. There can be no "rights" which individuals or groups could claim against this organized racial community, only duties and sacrifices. There can be no check or limitation of power by law, because government must be guided by the "interest of the community," as interpreted by Nazi leadership.

After the re-establishment of a genuine Germanic community, the Nazis would then proceed to re-establish the nation's greatness as a world-power with a world-mission. They would revive the spirit and instrumentalities of "defense," i.e., militarism and armed forces. Regained military might would then enable Nazi Germany to throw off the "fetters of Versailles" and to unite all "racial Germans," such as the Austrians, in a "Greater Germany." Then Germany would turn to the East, taking up where Germans left off in the Middle Ages, and acquire "living space" in those vast open spaces (never mind that they were densely settled!). Before turning East, however, it would have to settle accounts with its "hereditary enemy," France, the country which, allegedly, tried evermore to prevent Germany from rising to greatness. After the defeat of the "degenerate West" Germany would subdue "Eastern barbarism" and in this way eliminate the world-danger

of Bolshevism. In the fulfillment of its world-mission Germany would ally itself with Germanic and other "young" nations, such as Italy or Japan. Eventually, however, it was ordained to become the master of the world.

How was one to determine which Germans were destined to become the new elite? Since the traditional elite, the nobility, was no longer fit to lead, how was one to find those who remained uncontaminated by un-German blood and ideas? Hitler's solution was simplicity itself. Instead of measuring skulls and examining the blueness of eyes, he merely proclaimed that anybody would qualify who joined his new movement. It is obvious that this doctrine would appeal to large masses. It would give them a sense of belonging to a community and the hope of becoming leaders in a group destined to rule, a sense of a task to be fulfilled not only in "sordid self-interest" but for coming generations, a sense of challenge and adventure, and particularly the German joy of marching again in uniform. It would resolve their worries and frustrations, and give life a new meaning. It is obvious, too, that the doctrine fitted in with many traditional German political and social views: authority and strong leadership; the "rule of the best" in the common interest, the Nazi version of "genuine democracy" and "German socialism"; and the idea of the *Volks* as the basic political unit, and of its mission in the world.

#### NAZI PROPAGANDA

If the Nazi doctrine were all that Hitler had produced he would now be as little known as any peddler of falsehood and hate. But he knew how to use his doctrine in order to build up what really counted: his movement. He achieved this through a new type of influence over the mass mind, which is inadequately characterized by the term "propaganda." His type of propaganda was not simply the propagation of ideas, but included techniques of intimidation, "mental rape," mass hypnosis, in short, the various devices of what we today call psychological warfare, only here employed internally rather than against a foreign enemy. Thus one man's frustration became through his hypnotic personality the passionate hatred of similarly frustrated masses.



Hitler developed significant propaganda techniques. For instance, his propaganda, unlike that of ordinary political parties, was continuous. The Nazi propaganda machine bombarded the people, not just at election time, but day in and day out. There were floods of words, shouted in giant meetings, printed in newspapers and pamphlets, on leaflets and on placards. The masses were showered with symbols. There was the appeal of colors (in *Mein Kampf*, Hitler even went into the details of how to devise the best colors and configurations for the swastika emblem), the display of flags, uniforms, insignia, the playing of anthems, the singing of songs, slogans endlessly repeated, an elaborate ritual. The tension was never relaxed.

Besides being incessant, Hitler's propaganda was primitive and emotional in its attacks on the instincts and sentiments of the masses. It made full use of stereotypes and prejudices. It was a concentrated offensive against one enemy in whom all evil and guilt was embodied. The attention of the masses was not distracted with multiple goals or multiple reasons. The Jew was *the* enemy. He was held responsible for everything adverse: for the defeat in World War I and the peace "dictate," for the unjust reparations and the money inflation, for the depression and the plutocratic exploitation, and for the class struggle and disunity.

All of this was combined with intimidation of dissenters, with provocation of opponents, with libel and slander. Hitler discovered that the lie, if only big enough and repeated sufficiently often, was a potent weapon in the political struggle, since facts are usually not able to keep up with it. Nazis might be proved libelous in solemn trial but some of the slander would always stick, and the trial itself would serve them as political forum. Character assassination thus became stock-in-trade in their "propaganda." The effect of such procedures has recently become apparent to Americans. In Germany it caused fear and terror, disrupted existing bonds and loyalties, and spread confusion among non-Nazis. Many secretly joined the Nazi Party as a means of political reinsurance. The Nazis managed to plant spies in offices and agencies. When the Party was in the saddle, they would emerge as the framework of Nazi government. The Nazis thus inaugurated what

was to become known as "Trojan horse" or "Fifth column" tactics, the tactics of boring from within, of forming a state within the state. After leading them to power in Germany this tactic became their favorite weapon for undermining foreign countries; copied by other movements, it has since become the principal means of political conquest.

In contrast to the efforts of the other parties, Nazi propaganda was not primarily devised for any particular group but in principle for any and all (with the exception of Jews). Yet the propaganda had to be vague in order to bridge the great issues that divided the Germans. As one student of Fascism has put it, "to be grandly vague is the shortest road to power, for a meaningless noise is that which divides us least." Nazi propaganda rejected "plutocratic capitalism" as well as "Marxist socialism" and stood for "genuine" "national socialism." Under it, commonweal would prevail over private interest, but "justified" private initiative would not be destroyed and everybody would get his due. Parliamentary democracy as well as "reactionary" conservatism, republicanism as well as monarchism, was rejected in favor of a "genuine democracy" where a "people's community" would be led by its elite. With supreme disregard for logic, farmers were promised preferential standing in a "blood and soil" society at the same time that workers were extolled as its heroes, and industrialists as its "economic leaders."

This approach was most successful with those of all social groups who were frustrated by failure and unsophisticated enough to fall for high-sounding generalities. It appealed to such broken groups as the small shopkeeper, out-competed by department and chain stores (the latter frequently Jewish-owned); the unsuccessful lawyer or physician, resenting the success of Jewish (or other) colleagues; university graduates unable to find employment commensurate with their social status (the "academic proletariat"); small farmers, resenting exploitation at the hands of grain and cattle dealers (frequently Jewish); young people who throughout the depression never had a job and for whom the Weimar regime failed to establish anything like the Civilian Conservation Corps but for whom the Nazi movement, through the

storm troopers, offered activity, uniforms, ranks, and a new allegiance. Nazi propaganda, however, was not equally effective with other groups. By and large, two of them withstood it best: the "proletariat" and the Catholics. Election figures prior to 1933 show that Socialists and Communists, combined, maintained steadily about 35 per cent of the vote. Depression merely meant that Socialists lost and Communists gained, particularly from the young and the unemployed. The Center Party, likewise, withstood the Nazi onslaught, maintaining a steady 15 per cent. The masses supporting Nazism belonged to the non-Catholic middle classes. Between 1930 and 1933 the middle-class parties, particularly those representing the lower middle class, were practically wiped out. In addition, new voters, the young generation (again excepting most Catholics and workers among them), voted Nazi. So did the habitual non-voter, who, under the frenzy whipped up by Nazi propaganda, now went to the polls.

Besides the masses, it was equally important for Hitler to obtain the backing of the upper "classes," especially of those groups which alone were able to hand over state power to him. Gradually but surely the rising tide of his movement persuaded important elements in the ruling groups that his was "the wave of the future." Industrialists, generals, *Junkers*, some leading officials were now among his followers, convinced that they had to give Hitler a share in power in order to maintain their own influence and vested interests. Hitler now obtained financial subsidies from Ruhr industrialists. It was these groups which eventually induced Hindenburg to appoint Hitler chancellor. He thus neither had to gain a majority at the polls nor did he have to use force in order to obtain power. The "national revolution," as the Nazis called their access to power, was neither "national" nor a "revolution." It was victory by default.

#### CONSOLIDATION OF POWER

What followed was a lesson in how to consolidate power. The real Nazi "revolution," the conquest of the totality of power, occurred only after the formation of the Hitler cabinet. In this cabinet the Nazis were still a minority, and the *Junkers* thought it possible to keep them prisoners of the majority. Like all those who

believed the Nazis would behave in the traditional fashion according to the rules of the Constitution and within its limits, they were to be cruelly disillusioned. Remembering Mussolini's watchword, "the action always precedes the norm," Hitler and his chief henchmen, Göring and Goebbels, now acted, protests or no protests. Using the strategic positions of which they had foolishly been put in command (such as the Prussian police and the agencies of propaganda), they prepared for a new, final election by terror and intimidation. A Presidential "emergency decree" gave them the power to suppress opposition meetings and publications, arrest opposition leaders and put them into "protective custody" (Göring's new invention, soon to be known under the less reassuring name of "concentration camps"). Shrewd enough to proceed step by step, the Nazis first turned against the extreme Left in order not to frighten the moderates, who were to be dealt with a little later. The *Reichstag* building was set afire, an action which was blamed on the Communists in order to whip up anti-Communist hysteria. The radio was now used exclusively for Nazi propaganda, and the opposition was terrorized.

Despite all of this, the election (of March 1933) failed to produce the hoped-for Nazi majority; even with their Conservative allies the Nazis did not get the two-thirds majority which Hitler needed to formalize his autocratic rule through constitutional amendment. But Göring, in his dual capacity of President of the *Reichstag* and chief of the police, took care of everything. He excluded the elected Communist delegates from the *Reichstag* session; many of them, as well as some Social Democratic leaders, were already in concentration camps. Still, outside help was needed for passing the Enabling Act which Hitler wanted. Partly through intimidation and partly through promises (to be forgotten as soon as the vote was taken), the Center Party, along with some minor "liberal" groups, was induced to vote for the Act. Only the Social Democrats opposed. The Act, of March 24, 1933, concentrated all power in the Executive (Cabinet) which could now legislate by simple decree and even amend the constitution. Parliament and parties had written their own death-warrant. To be sure, the Act contained certain

restrictions. It was to be for a period of four years "only," and the "existence" of *Reichstag*, *Reichsrat*, and Presidency was to be safeguarded. But who was now to gainsay if these limitations were disregarded?

They were. After the emasculation of parliament the real revolution started. But it was a strange revolution. Afterwards no political institution resembled any previous one, and yet everything was achieved in a "peaceful" way, through a process of what was called *Gleichschaltung* (co-ordination, synchronization). No open resistance was offered by anybody; the ever-present threat of force, with the constant narcotic of propaganda, sufficed to stifle any such attempt. Thus, the *Länder* were "co-ordinated," i.e., provided with Nazi governments; so were the municipalities and other units of administration. All elected bodies, in states, cities, provinces, were suspended. The civil service was purged of "politically unreliable" officials. Press, schools, universities, the professions were co-ordinated; cultural and economic organizations and all other associations were put under the control of trusted Nazis (who had infiltrated them before). Even seemingly innocuous groups, whether football players or stamp collectors, were "synchronized" with the new regime. Labor was put under control through the outlawry of the free trade unions, whose properties were confiscated. The political parties were outlawed one by one, proceeding from Left to Right, until it came the turn of the Nazis' allies themselves, their own partners in the Cabinet.

Totalitarianism, in the sense of total concentration of power in the hands of Hitler, was achieved, with the exception of the army, the circles around Hindenburg, and the churches, by July 1933. The "revolution" thereupon was declared officially terminated, to the dismay of a leftist wing in the Party, particularly in the leadership of the SA, which had expected more thoroughgoing action against "plutocratic capitalists." (The SA was Hitler's paramilitary storm troopers organization, with many young unemployed in its ranks, see above, p. 626.) Again taking the initiative, Hitler forestalled unrest by his "blood-purge" of June 30, 1934; acting as prosecutor, judge, and executioner

in one, he killed off the suspected radicals in his Party, among them SA chief Ernst Röhm, and, simultaneously, used the occasion to liquidate those outside the Party suspected of Rightist, i.e., conservative-reactionary, opposition, such as certain army generals, *Junkers*, and Catholic leaders. By thus eliminating potential centers of resistance he served notice on any and all that he meant business. Army, bureaucracy, big business, whoever might still have hesitated, now conformed. Thereafter no public purges were necessary, and the terror machine worked secretly. Hindenburg, by this time senile and completely isolated, died on August 2, 1934. On that date, Hitler put the final touch to his rule: He merged the Presidency with the Chancellorship, and thereby assumed whatever powers had remained with the President. The main impact of this step was felt by the army. With every soldier and officer now taking the oath of loyalty to Hitler as their supreme commander, any resistance from these quarters could henceforth only be scattered and unorganized. It had taken Hitler little more than a year to attain what Mussolini achieved in four years with less complete success.

### *State and Society under Nazism*

Totalitarianism is characterized by concentration of all political power in one man or group and the use of such power for the complete control of society. The Nazis gained and maintained totalitarian control in five connected ways: (a) by Concentration of Power, that is, through organizing government in such a way as to allow no limitations of power, delimitations of jurisdictions, remnants of autonomies, or similar checks; (b) by Atomization of Society, that is, through dissolving existing groups so as to isolate individuals and render them dependent on the concentrated power of the regime; (c) by Co-ordination of the Individual, that is, by then organizing these individuals in new groups established and controlled by the Nazi regime; (d) by organizing and applying a system of Terror to maintain this control; and (e) by Propaganda, that is, by maintaining a monopoly of information for the control of opinion and the indoctrination of the minds.

## Concentration of Power

### THE LEADERSHIP PRINCIPLE

In the absence of any real limitations and delimitations of power, totalitarian government, as organization, is simple. Unlike the Soviet Union and even Fascist Italy, the Nazis did not even bother with the semblance of a constitutional document. The Weimar Constitution was considered void. The only "constitutional" principle in the Nazi state was the Leadership Principle, which meant that the will of the *Führer* ("Leader," now Hitler's official title) was the highest law and the ultimate source of authority. Below this highest level of authority, assignment and delimitation of jurisdictions were always provisional and revocable. The Reich Cabinet ceased to function as a body. Hardly any Cabinet meetings were held and no votes were cast. Ministers were appointed and dismissed by, and exclusively responsible to, the *Führer*. As heads of departments they became mere "technical experts," while real political decisions were made elsewhere, either by Hitler himself or by trusted lieutenants, usually high Party leaders. One of them, the "Deputy Leader," who was Hitler's deputy in the Party but not in Hitler's capacity as head of the government, entered the Cabinet in order to represent in government the interests of the Party as an organization. After the Enabling Act most legislation occurred by decree, signed by the minister or ministers whose fields were concerned, and by the *Führer* or his deputy. At the outbreak of World War II a Ministerial Defense Council was established as a kind of war cabinet under Göring's chairmanship and authorized to enact decrees without Hitler's signature; an inner group of three within this body became predominant.

Legislation, under the leadership principle, could also take other forms, for instance, that of a so-called *Führer* edict, a law issued by Hitler alone, and sometimes not even made public. Any statement by Hitler was tantamount to law, including even passages from his writing and speeches. Since his will was constantly changing, Nazi "law" could not provide security to anybody in the sense in which people traditionally expect security and protection from law.

Occasionally, if it was deemed advisable for

reasons of propaganda, the *Führer* would have a statute enacted by the *Reichstag*. In contrast to *Reichsrat* and Presidency the *Reichstag* was continued as an institution, and elections were held to provide deputies. As in Soviet "elections" (pp. 485, 487-88) there was only one party, and one party-named list of candidates, and thus election was the sheerest farce. Majorities of 99 per cent were assured from the outset, and the whole affair simply enabled the regime to demonstrate to Germans and the world that it enjoyed the "enthusiastic backing of the people." So-called "plebiscites" served similar purposes. Their legal significance was nil, since the people were merely to "confirm" decisions already made by Hitler; they usually concerned some popular foreign-policy measure, such as the incorporation of Austria into Germany, so that nationalist sentiment could be relied upon to provide another loyalty demonstration. In the age of Communist "mass petitions" for peace, such devices have become quite common, but they were still novel when the Nazis used them. The *Reichstag* itself passed scarcely more than half a dozen acts. Otherwise it served as an audience for Hitler speeches, as did the annual Party Congress, a festive gathering rather than a political institution. All this constituted the "democratic" façade of the dictatorship. Why, indeed, should there be real elections and popular representation, why separation of powers and independence of judges, why parties and political discussion, when there was a leader supported by 99 per cent of the people?

### CENTRALIZATION

Concentration of power at the top led to the same thing on lower levels. Every totalitarian state tends to be unitary and centralized, outward appearance (as in the U.S.S.R.) notwithstanding. For it cannot afford to grant any autonomy to subdivisions which would be outside its direct control and might become centers of emerging opposition. Thus the Nazis abolished *Länder* autonomy, and with it the federal structure of the Reich, which became a unitary state. The *Länder* became mere administrative districts; their parliaments were abolished, and their governments were turned into groups of officials working under the direction

of a Reich Governor, a kind of prefect appointed by Hitler. But there was little left for them to direct after the Reich assumed control. Departments of justice, education, and police, for example, were handled directly by Reich ministries. Prussia was for all practical purposes abolished, and its ministries were merged with the corresponding ones of the Reich. The other *Länder* retained their boundaries (with minor exceptions). There were some attempts to reorganize them according to the *Gau* pattern of the Party (*Gaue*—the Party districts, headed by Nazi chieftains called *Gauleiter*), but the Nazis hesitated to offend continuing particularistic feeling in the *Länder*. They tended to leave alone, for instance, the vested interests of the old *Land* bureaucracies and of the Party satraps who ruled their territories as combined Reich Governors and *Gauleiter*. On the local level, mayors and other officials were appointed and dismissed by the Reich Minister of the Interior, and municipal councils were appointive and advisory only.

#### BUREAUCRACY AND NAZISM

To maintain such centralized control the regime needed the assistance of a reliable body of personnel. The Nazis were here faced with a problem with which all "revolutionary" regimes are confronted; namely, whether it is better to continue to utilize an existing, tested, and experienced but politically "pre-regime" bureaucracy, or to build up a new civil service from loyal but inexperienced followers. The Bolsheviks, in the main, chose the second alternative; they did so at great expense of time and energy, but these sacrifices proved politically rewarding. The Nazis, however, could not afford to lose time. Preparation for the war which Hitler wanted was the all-important motive behind the policies of the regime (which in this decisive respect differed not only from the Bolshevik but also from the Italian Fascist regime); and in order to put Germany on a war-footing the Nazis had to rely on the expert services of the existing bureaucracy. On the other hand, they took no chances. They at once purged "politically unreliable" and "non-Aryan" officials, and then put the remainder on notice. The sword of dismissal was hanging constantly over the heads of officials who depended on their

jobs for their own and their families' livelihood. Since they were specialists trained for this and no other profession, very few dared not to conform. With Nazis, moreover, holding all key positions, the bureaucracy became an essential and, by and large, reliable and efficient instrument for the fulfillment of the Nazi program.

Still, the old bureaucracy did not merge completely with the new Party appointees, and a dual system continued inside the civil service as well as in the relation between Party and administrative state machinery. Within the service older professional civil servants and new Nazi appointees worked together with more or less friction, but generally the Party view prevailed because the Nazis held the key posts. The relation between the Party, as an organization, and state administration was not one of merger, but rather one of control, supervision, and influence by the Party. Key posts in the state, such as ministries, Reich Governorships, headships of the police, were given to Party members, who frequently held key Party positions simultaneously. In contrast to Weimar, where the bureaucracy often cared little about its "political" superiors, the Nazis left no question that they meant to control the bureaucracy through their occupation of high-level posts. On the other hand, the *lower* level Party organizations (local, *Gau*, etc.) were not permitted on their own to interfere with the state administration. Both, state machinery and Party organization, were thus separately kept under the control of the Nazi elite, which, as a group or "gang," ruled supreme, using for its purpose now the state and now the Party. Whether this should be called rule of state over Party or vice versa is immaterial; it was ultimately the rule of one man who claimed to embody in his person, state, Party, and people. Since both state and Party were vast reservoirs of jobs and influence they often competed for jurisdictions. Hitler and his deputies settled such disputes for their own purposes by playing off Party and state against each other.

Supreme power thus rested with the Nazi leadership, with Hitler and with those on whom he conferred authority. Even this top group, however, remained unorganized and ever-changing. Unlike Stalin and Mussolini, Hitler avoided institutionalization of authority even

at the top, and with good reason, as was demonstrated by Mussolini's experience with his own "Fascist Grand Council," which voted for Mussolini's dismissal in 1943. What sometimes is referred to as a Nazi top organization, the "Party Directorate," was neither a Nazi Politburo nor a Nazi Grand Council. It did not function as a supreme policy-making body, nor even advise as a body; it was simply an administrative upper layer of the Party. A number of its members (*Reichsleiter*) belonged indeed to the political inner circle, but others did not, and some members of the elite were not *Reichsleiter*s (Göring being the most conspicuous example). Nazi rule is a unique example of how a gang can govern a modern nation.

### *Atomization of Society*

If concentration of power and rule from above constituted the only criterion of totalitarian government it would not, in principle, be different from other types of authoritarian rule with which history abounds. It has, indeed, been often confused with old-style aristocratic, despotic, or similarly authoritarian rule. It goes, however, beyond such rulership and introduces novel features of government. Traditional authoritarianism, such as oriental despotism or the absolutist monarchy of the seventeenth and eighteenth centuries, was never entirely unrestricted by tradition, precedent, and customs; it left large fields of life and society untouched. Modern totalitarianism, on the other hand, affects and molds everything. Society becomes the product of dictatorial policy alone; it is created and not creative. Totalitarianism destroys existing groups and institutions in a process which may be called the atomization of society. To some extent this atomization is foreshadowed by the modern freedom of the individual from custom and tradition. But while liberalism has advocated the free development of the individual in order to render him independent and self-reliant, totalitarianism exploits the fears and anxieties which go with freedom in order to enslave him. Severed from previous "organic" relationships, the citizen becomes dependent on the new regime. The usual bait is promise of "security." The German sold his birthright of political, social, and general liberty in return for

jobs under the Nazi armament program and for a stake in the glorious future which Nazism promised to bring to Germany.

### EUGENIC POLICIES

The "racial policies" of the regime may serve to illustrate to what extent the individual was rendered a helpless atom in the new society. Extermination of "non-Aryans" was only one side of this picture. The other side was purification and strengthening of the Aryan race itself. Laws providing for sterilization of persons affected with certain hereditary diseases and for castration of habitual sexual offenders inaugurated a program of wholesale elimination of those found weak or obnoxious or merely "useless." With strong liberal safeguards Justice Holmes' famous justification of eugenic measures ("two generations of imbeciles is enough") may hold its ground. But Nazism offered no guarantees against abuses, and delivered the individual to the tender mercies of those in power. The Nazi racial program culminated in a *Führer* edict (kept secret and communicated only to those directly in charge of its execution) for the "mercy-killing" of inmates of asylums. How many thousands of pure "Aryan" Germans were thus put to death or maimed will never be known.

### THE FAMILY

The fact that Hitler preferred to keep his mercy-killing decree secret shows that resistance against total atomization had not been completely broken. Such resistance was spearheaded by groups whose submission was the constant desire of the regime. Even the family, the closest and most intimate group in which the individual finds himself, became the goal of Nazi attacks because it offered, or was suspected of offering, resistance against the total co-ordination of the individual into the Nazi order. Children had to be "saved" from the influence of parents, and it was the task of the school and, particularly, of the Nazi youth organizations, to see to it that no non-Nazi influence was exercised on the youthful mind. No unsupervised leisure time was to be allowed. Allegiance to the Nazi cause was to be supreme. Informing, telling on parents by children, on teachers by pupils, on priests by members of the congregation, was not



dishonorable, but, rather, a sacred duty. The conflicts of conscience, the blackmail, the corruption of moral standards which ensued can easily be imagined.

#### THE CHURCHES

Next to the family it was the churches which were to be destroyed as independent institutions with their own creed and allegiance. Despite a professed "positive Christianity," Nazism was pagan in essence. It rejected all non-Nazi values, glorified non-Christian standards of inequality of races and individuals, and affirmed violence and other bellicose virtues. But neo-paganism as an organized new religion remained unimportant. The Nazis were too clever to try to destroy the established churches outright. If by countenancing the traditional outward forms of religion they could obtain essential allegiance from the churches, this would constitute a greater victory for the regime than suppression. This Stalin seems to have realized also. A church driven underground has still a chance to preserve its values and maintain the morale of its members, but one degraded to collaboration with Nazism would be drained of its lifeblood. It could be tolerated because it agreed to provide the regime with the consecration of God's approval.

The churches, in part, realized the danger inherent in this program, and the Nazis were never able to overcome completely the resistance they offered. But the nature and extent of this resistance has sometimes been exaggerated. In the Protestant Church it was only a small minority of preachers and lay members who organized resistance and formed a so-called "Confessional Church." The majority complied, and another minority even became active Nazis, organizing themselves as "German Christians." In the Catholic Church, because of its authoritarian structure, there was no such split. There was a spirit of resistance among laity and lower clergy, but it could not be translated into action as long as the Vatican tried collaboration with the regime. The conclusion of a Concordat with the Holy See, in 1933, was Hitler's first triumph in foreign policy. When, subsequently, he proceeded to violate one after another of its stipulations, the Church realized its mistake and protested. But even after all its organizations, from

youth groups to welfare institutions, had been suppressed and the Nazis had gone on to attack its spiritual prestige by a campaign of vilification, the church refused to declare all-out war. Neither the Confessional Church nor Catholicism ever openly opposed Nazism as a general and political system. They did protest against its antireligious and pagan features, against certain racial and other policies irreconcilable with religious dogmas, but they did not, as churches, speak up against its other abuses. They even prayed for German victory in Hitler's wars of aggression. Their opposition thus was partial, and not a matter of total principle. Yet they had their martyrs, and their defiance was a banner of hope which made the cause of anti-Nazism appear less gloomy.

#### ARMY AND NOBILITY

The treatment of army circles and the nobility offers another example of resistance to total atomization. Authoritarian though the philosophy of these groups had always been, it was a philosophy which still respected certain moral standards. Their initial alliance with the Nazis had been based on opportunism. Nazism, indeed, seemed to restore to the army its old status and to open the way to "national revival" and to Germany's re-emergence as a Great Power. Nazism, moreover, meant the revival of the militaristic spirit. But their ultimate ideals differed. Fighting, to the *Junker* and the soldier raised in his tradition, still meant fighting for some cause, defense of the fatherland, or of throne and altar. But the Nazis' ideal was conquest of power for power's sake, and in this battle man was to become a technically skilled but morally insensitive robot, ready to commit any deed, if ever so foul, any action, if ever so brutal. In this rejection of even the most elementary standards of morality lay Nazism's "Nihilism."

When this became apparent the officers and *Junkers* still imbued with their own standards of honor attempted to resist. But, in contrast to the churches, they had no longer an organization through which they could act; they had allowed Hitler to destroy their associations and had handed over to him the control of the armed forces. Thus resistance could only be carried on underground. Its backbone was already broken at the time of the "blood-purge"



in 1934, and a subsequent purge of February 1938. We know now that a plan to overthrow the regime late in 1938 had to be postponed when the Western Powers appeased Hitler (Munich Agreement of September 1938) and thereby raised his prestige to its pinnacle. Chamberlain and Daladier thus kept Hitler in power against his internal opponents. Not until the final stage of the war could new plans be worked out, but the attempt of July 1944 to assassinate Hitler and overthrow the regime failed. Hitler's vengeance was frightful even by Nazi standards. Before postwar developments destroyed it economically, German *Junkedom* had lost its best members to the Nazi executioner.

### Co-ordination of the Individual

#### PARTY AND PARTY ORGANIZATIONS

Atomization of society and the isolation of the individual were only means to an end—the total control of the individual through new groupings established by the regime. All organizations under Nazism became either controlling or controlled groups, and no individual or group was allowed to remain outside such organized control. This is what the much-heralded “corporate” or “estates” structure of fascism (in Italy and Spain as well as in Germany) amounted to. It was not “self-organization” of the respective interests and groups, not autonomy or pluralism of classes, but merely a façade for totalitarian control. The main instrumentality for such supervision was the Party itself, with its proliferation of affiliated and supervised Party organizations. They were set up for every imaginable purpose, either to organize the supervisors in a controlling group, or the supervised in a controlled one. Frequently there were two organizations, controlling and controlled, for one and the same group or occupation. Thus, every university student had to join the “German Students Association,” a Nazi-controlled organization which replaced the previous free students associations, such as fraternities. The “National Socialist Students Association,” on the other hand, was a select group of active Nazis among students, the elite who would supervise and indoctrinate the bulk of the students. Another example was the Hitler Youth,

the compulsory organization for every boy and girl. It contained a select group, the *Stamm* (core) Hitler Youth, which was to be trained in special schools to become the future Nazi elite. They were to lead the masses of the German youth which had been deprived of their traditional (and formerly flourishing) youth organizations. As a result of these developments the Party itself changed its character. The political and active “movement” of pre-1933 days was turned into an instrument for the maintenance of the rule of a regime. In theory, the Party was still supposed to be the political foundation of this regime and to express its will and policies; in practice it became as thoroughly managed from above as any other instrumentality of Nazi rulership. Only at its top level did it imperceptibly shade off into the realm of actual rulership.

#### LABOR UNDER NAZISM

How did the main economic and social groups fare under Nazi co-ordination? Discussion as to what Nazism actually meant to the economic and social structure of Germany is still raging. Was it merely the continued rule of capitalism, in particular monopoly capitalism, or was it the rule of a group hostile to private property, “Brown Bolshevism” in the sense of a planned and state-controlled economy of the Russian pattern? To begin with, labor was completely deprived of any influence. Its free trade unions were suppressed, together with the political parties which had represented its interests; strikes were forbidden; any advocacy of workers’ demands, unless voiced by official Party spokesmen, was interpreted as advocacy of class struggle and thus considered subversive. The vast Nazi-sponsored “Labor Front,” an organization to which practically all employees as well as employers in trade and industry had to belong, was a pseudo-socialist front to conceal actual Nazi control. Since it included employers, it was not supposed to represent specific labor interests, and even less to participate in the regulation of labor conditions. Its function was “educational,” i.e., propagandistic; it even controlled the worker’s leisure time through such sub-organizations as the one bearing the colorful name of *Kraft durch Freude* (“Strength through

Joy"). Labor was entirely a managed group; it was not even allowed, like other groups, to have its own, Nazi-controlled organization.

As for labor conditions, the status of the working-man was one of complete regimentation. The state determined his wages, hours, and where and in what kind of occupation he was to work. Universal labor conscription was introduced before the outbreak of the war. The workers were the first to be "mobilized" in an economy of war-preparation. The Nazis, moreover, abolished many safeguards, such as those concerning child and women's labor. Relative to other groups, the worker's living standard declined. But his job was secure in an economy with labor shortages. The average worker, comparing this situation with depression conditions, preferred job security to freedom plus unemployment. Although passively and often grumblingly, the German worker collaborated, an attitude not very surprising in a full-employment economy, which promised him subsequent participation in the spoils of an entire continent. To the whole German people longer hours, worsening living conditions, and scarcity of consumers' goods appeared as an investment which would pay off—cannons in order to get butter. Only when the cannons failed to procure the butter, did the masses turn away from the regime. The traditional submissiveness of the German, of course, had something to do with this. It has been rightly observed that "more French socialists and trade unionists co-operated with Vichy and the Nazis than did their German counterparts. But an infinitely larger number of French socialists and trade unionists fought heroically against Fascism."

#### THE PEASANTRY

The peasantry, like labor, became a ruled group, but it had its own "Nazi" organization in the Reich Food Estate. This was, of course, an organization led by Nazis and used to enforce the "plan": Like the worker, the individual farmer was regimented; he was told what to plant and how much, what to deliver to the food authorities and at what price. Nazi agriculture was planned, though not collectivized, a pattern now taken up in Eastern Germany again. In addition, a law on hereditary farms, forbidding partition of the farm among several

heirs, tied the heir to his farm and drove the younger sons into the factories. But under conditions of food shortage and rationing, the farmer (even if he has to fill compulsory delivery quotas) is in a better bargaining position than the worker. The economic status of the German peasant compared favorably with that of the worker; and since he might try to sabotage deliveries, the regime treated him a little more gingerly. But there was no question of his belonging to, or being represented in, the ruling elite. Nazi Germany was as little a peasant's state as it was proletarian. Was it then the rule of the capitalists?

#### BUSINESS AND MIDDLE CLASSES

Nazism did not destroy capitalism as a system; it did not socialize private property. On the contrary, it made the owner "leader of the enterprise." He could now manage his affairs without fear of strikes or labor unrest. Nazism had released him from the danger of Bolshevism and the necessity of dealing with organized labor as partner; it abolished unemployment through its economy of pump-priming for armament; it maintained high profits, strengthened cartel agreements, gave business a chance to profit from "Aryanization" of Jewish property and, subsequently, from exploitation of conquered countries. This however was only one side of the picture. The other side was Nazi control of business. The "leader of the enterprise" was told by state-appointed and Nazi-controlled "Labor Trustees" what wages he had to pay, how many hours his workers had to work, even which workers he might hire. He had to approach officers of the "Estate of Trade and Industry" or those of the so-called "Four-Year-Plan Organization" (established in 1936 under Göring), or other officials of a host of agencies for almost everything concerning the management of his business, from allocation of raw materials and credit to the determination of what to produce or sell and at what price. He needed permission to open new shops or enlarge existing ones, and he might be ordered to close down. Nazi economy was a completely regimented "war economy" already prior to actual war.

In judging the effects of this system, one has to make distinctions. Ironically enough, those

who fared worst were the small businessman, the artisan, small shopkeeper or trader, in short, the groups that had flocked to Nazism at its rise in the hope of economic salvation. They were all but destroyed in favor of more efficient (and more influential) big business. Many of them joined the proletariat or the growing class of white-collar employees in the huge economic bureaucracy or the staff of the Party and its organizations. Nazism left the legacy of a ruined lower middle class.

Big business, especially the industrial and banking interests, fared much better, despite controls. It shared in handsome profits and maintained a greater influence over the management of its own affairs than any other group. Its representatives in the Estates and in similar organs of "business self-administration" exercised far more actual influence than did representatives of other groups in the Nazi-controlled organizations. They even had easier access to the highest leadership group. Stockholders' meetings were (outside the judicial benches) the only place in Germany where a vote still counted. Big business was favored by the destruction of small enterprise and profited from the exploitation of cheap foreign and concentration camp labor. Yet it operated in a system which gave it no influence over decisive political decisions such as the preparation for, and waging of, aggressive wars, the Nazi anti-Jewish policies, or the struggle against the churches. It was, moreover, threatened by increasing state-competition, as in the field of steel and chemical production by the giant Reich-owned "Hermann Göring Works," and it did not enjoy legal security. A system which can put anybody it dislikes into a concentration camp and which can confiscate property for any or no reason is scarcely the "rule of monopoly capitalism," even if it leaves monopolies temporarily intact and refrains from using the secret police against businessmen as long as they behave. The new Nazi elite saved big business for the same reason it hesitated to destroy the other old forces, like the bureaucracy and the *Junkers*. It needed them for all-out war. What would have happened if Germany had won the war is another question. Developments in the later years of the regime showed that the Nazis held

the trump cards. If necessary Hitler could always mobilize the "proletarian" elements in the Party and play them off against business. And, too, the Gestapo was forever in the background. The Nazis had risen to power through an alliance with vested interests, an alliance in which each partner had hoped to dominate the other. On the whole the Nazis won out, leaving their partners some crumbs of profit and spoil.

### *Organization of the Terror*

To some extent all organized society rests on compulsion. What distinguishes totalitarianism from free society is that it rests on terror *as an institution*. The individual is exposed to the permanent threat of forceful action by the state against his possessions, his liberty, his life. When such organized violence is applied unpredictably, when its practitioners are free from any limitation or supervision, then there emerges the characteristic "police-state" atmosphere, that atmosphere of all-pervading and ever-present fear and suspicion which leaves the individual with a sense of utter helplessness and enables the regime to enforce whatever policy it desires.<sup>3</sup> This modern terror is distinguished from old-style coercion under despotism in three ways: (a) Its existence is never admitted. Officially, one lives in a "genuinely free" society, and anybody who dares intimate that terror exists is branded as subversive, as a teller of "atrocious stories," and is himself taken care of by the secret police; (b) It is systematized, i.e., all institutions of state and regime are ultimately at its service; (c) It is performed "scientifically," using the findings and refinements of modern psychology and other sciences for its purposes.

### NAZI LAW

The law, under this system, ceases to be a general rule defining rights and obligations, and becomes pure command and coercion, a means of mass manipulation by violence. As Nazi jurists put it, "Law is what is useful for

<sup>3</sup> The terror connected with the visits of the secret police at the small hours is illustrated by the story of the apartment-house janitor who, knocking at apartment doors one night, loudly shouted: "Don't be afraid, Party Comrades, it's only a fire."

the people," "usefulness" to be defined by Nazi leaders and judges. Principles of *ex post facto* law and punishment by analogy were applied by judges who had lost their independence. Nazi standards and policies took precedence over legal provisions. Yet the Nazis found that many among the "old" judiciary could not entirely escape the *Rechtsstaat* spirit in which they had been trained. They would apply duly issued statutes, even brutal ones, but would object to the disregard of the principle of "equality before the law." They would hesitate, for instance, to treat Party members differently from non-Party members in individual cases. Hence Hitler's resentment against the judges, whom he accused of "formalism." He established special courts, staffed with Nazi judges picked from such Nazi formations as the "Protective Formations," or SS, and put them in charge of political crimes or the application of the racial and eugenic legislation. This explains the blood-justice of the "People's Court" at Berlin and similar terror institutions.

#### THE GESTAPO

But even special courts offered too many guarantees to the accused to be satisfactory as the main instrumentality of terror. They might, although rarely, acquit an accused with force of legal judgment. The regime needed an institution which was entirely free from remnants of formalism, and it created it in the form of the "Secret State Police," or "Gestapo." The Gestapo, although part of the state (Reich) administration, was an independent agency with unlimited power over any individual and any group, an agency against whose actions and decisions there was no appeal to courts or any other authority. Gestapo authorities could arrest anybody without warrant and detain him indefinitely without further trial in their "concentration camps." They could, and would, arrest a person just acquitted by a court because they still deemed him "dangerous." They supervised the citizen in his daily life, watched his travels and movements, tapped his wires, read his correspondence, overheard his conversation. With the help of the Security Service (SD), a vast organization of voluntary spies and informers, they scrutinized everybody's attitudes and opinions. The policies of the regime as well

as its propaganda were based on the reports derived from such scrutiny. The Gestapo's tentacles extended even into foreign countries. No one could trust anyone else. Formation of opposition groups in this way was prevented or nipped in the bud.

In its organization the Gestapo was perhaps the most typically Nazi of all. It was closely amalgamated with the Party's SS (Protective Formation, as it was called euphemistically) which had emerged from the SA and become, after the latter's demise as a politically powerful formation in 1934, the backbone of the regime's terror machinery. SS and Gestapo were headed by Heinrich Himmler, a cold-blooded fanatic who, next to Hitler, became the most powerful figure of the regime and later the most feared and execrated name in all Nazi-dominated Europe. SS members were selected for "racial purity," physical strength, fanatical devotion, and capacity to inflict the utmost cruelty if so ordered. They staffed the Gestapo, guarded the concentration camps, and later formed the most frightful organization of all, the *Einsatzgruppen*, or "Special Task Formations," which followed the victorious German armies all over Europe to hunt out and exterminate *en masse*, Jews, commissars, and other marked groups.

SS and Gestapo developed the art of breaking an individual's will and mind through physical and mental torture. In the concentration camp they created a new type of "society." Paradoxically, it was the only institution with some "self-government" under Nazism. Internal management was left to a special group among the inmates, the ordinary criminals, whom the Nazis added along with vagrants and homosexuals to the political inmates so as to be able to brand all of them as "criminals and perverts." "Medical" and other sadistic experiments performed on camp inmates were Nazi contributions to the study of how human groups and human beings function under inhuman stress. Another contribution was the scientific development of mass extermination in gas chambers and related devices. During the war the camp population swelled and included many of the elite of Europe, from nationalists to Communists, from Catholics to Jehovah's Witnesses, intellectuals and "modernistic" artists, officers and pacifists, Germans as well as non-Germans.

Most of them perished, and the survivors were physically and mentally broken. From this loss Europe still suffers.

What rendered Nazi terror so frightful was its organized nature, its cold-blooded planning. Even what appeared as spontaneous mob violence (e.g., the synagogue burnings of November 1938) was in reality carefully planned. Of greater importance, however, was the legalized terror by administrative authority and bureaucratic procedure. Here the German tradition of obedience to authority paid dividends. Since all participants acted "under order" they all felt that their actions were "legal"—the judge inflicting the death penalty upon one who had refused to denounce a friend; the officer sinking a ship loaded with political prisoners; the police official assembling Jews for deportation in cattle cars; the doctors and nurses obeying the decree for mercy killing; managers of firms starving slave laborers, or delivering incineration furnaces according to specification; concentration camp guards enforcing the "disciplinary codes" of the camp commandants.

#### JEWISH PERSECUTION

Jewish persecution offers the prime example of how this bureaucratized terror worked. Without it even the Nazis might not have managed to kill six million "non-Aryans" within three or four years. From beginning to end all persecutory measures were taken "lawfully" under procedures meticulously defined by statutes and enforced by competent authorities. The Nazis shrewdly started with "mild" measures. First came the exclusion of Jews from professions, then gradually the total destruction of their economic life, and finally their deportation to camps in Eastern Europe where they were either worked to death or "exterminated" if they were young or weak.

Besides satisfying its racist aims, anti-Semitism served the regime politically in many ways. It intimidated would-be opponents, and it made allies of anti-Semites abroad who became the basis for "fifth columns." As an initial break with principles of equality and legal protection, it served as precedent for subsequent more general destruction of the rule of law. It was one (and almost the only) implementation of the original Nazi program, and this satisfied its

earlier followers. In its confiscatory stage it appeared anti-capitalist, but it also lined the pockets of those who could profit from "Aryanization." In general, it bound all participants in a common guilt with the Nazis proper and thus made jumping off the bandwagon more difficult. It would be wrong, however, to believe that it made all Germans Jew-haters. On the contrary, a good many turned philo-Semitic under the impact of what they saw or learned; some even helped heroically. But the mass looked the other way when ugly things happened, and many did not hesitate to profit. Like the Empress Maria Theresa at the partition of Poland, they wept but took.

Quite generally passivity and conformism were the main effects of the terror on the population. If the average citizen did not "mix in things which did not regard him" he had a good chance of never being involved with the Gestapo. One should therefore not over-estimate the impact of the terror on everyday life. The regime was satisfied if people knew in a vague and general way what threatened non-conformants. This "leniency" rendered the terror the more effective against active opponents and groups singled out for persecution. Under earlier despotism, resisters felt that they had the people's sympathy. Under Nazism they were isolated from their people even spiritually, and therefore soon felt lost and discouraged. It was different in occupied Europe, where the Nazis were the common enemy of resisters and the general population alike. For a German resister to work for freedom was to work for defeat of his country; this was the cruel dilemma into which Nazism had placed the decent German.

#### *Propaganda and the Control of the Minds*

Terror is one support of totalitarian power; the other is the organization of total allegiance or, at least, total conformism. While in pre-totalitarian societies, including the authoritarian ones, thought and opinion are to some extent spontaneous, totalitarianism strives to manipulate even this most intimate and personal realm.

Propaganda as organized by the Nazis was not simply the effort of one of competing groups to influence minds and opinions; nor was it even the preponderant influence of the large-scale

media of communication (mass press, broadcasting chains). With totalitarian propaganda all competition ceases. The regime monopolizes all channels of information and opinion and uses them for unlimited indoctrination.

#### THE PROPAGANDA MACHINE

This involved: (a) the co-ordination and control not only of the traditional channels of communication but of everything which had any connection with thought, ideology, and opinion; (b) the distortion of objective information, research, and so forth, into indoctrination according to the official tenets of Nazi philosophy. Joseph Goebbels, as head of the so-called Ministry of Propaganda and Public Enlightenment, controlled not only press and radio but all cultural activities, the theater, films, music, the arts, and literature. A vast Chamber of Culture regulated admission to these professions. Since only those admitted were allowed to practice their profession, recalcitrants or suspects were condemned to economic death. Control extended beyond the cultural sphere proper into that of education, research, and science; into the schools on all levels, with their "co-ordinated" teaching staffs and Nazified curriculums and texts; into the Nazified universities and other institutions of learning and research; and into the Nazi youth organization. In a totalitarian regime almost everything has its propagandistic aspect. The entire life of society is permeated with the regime's symbolism and performances, the continual torchlight processions, the national or Party holidays with their rituals and parades, the "martyrs of the movement," the Party buildings, monuments and public works, and the "plebiscites" and "elections." All this, as has been said, makes "the action of an authoritarian apparatus appear as the spontaneous activity of the masses." People were thus kept in permanent frenzy. Totalitarianism depends on "activism," on perpetual motion.

#### CONTROL OF CULTURE

Thought-control called for repetition of the same doctrine all the time. It meant an "Iron Curtain" around the German people to cut them off from information in or out of Germany detrimental to the regime. Newspapers, magazines, radio, and, of course, the official statements and

speeches of the regime, voiced the same "line." It was always Goebbels' voice. Thought-control further meant the suppression of anything opposed to the official Nazis ideals. That control which the Soviet regime began in earnest after World War II (above, pp. 446-448) was practiced by the Nazis in the thirties. There was no art, science, or thought, which did not have to adopt an official "Party line." History was rewritten and re-taught in accordance with racist doctrine; philosophy outlawed "liberalist" theories and "Judaized" thinkers in favor of "genuinely German" ones; "German physics" was substituted for Einstein's "Jewish" theory of relativity; law repudiated the "formalistic" spirit of Roman law; art was purged of modernistic tendencies called "cultural Bolshevism," in favor of Hitler's own lower middle-class tastes; and literature was confined to writings extolling nationalism, militarism, heroism, and obedience. Nowhere else, perhaps, was the stultifying effect of conformism more apparent than in the cultural realm. German cultural life had flourished in the twenties; under Nazism the arts were as sterile as in Fascist Italy, or as they became in the Soviet Union. Creative minds left Germany or withdrew into "internal exile"; others were harassed and hunted down by the Gestapo. The "burning of the books" was the natural companion-piece to the concentration camp. This was not barbarian contempt for culture; on the contrary, it showed with what deadly seriousness totalitarians take everything, including culture, that has a bearing on the control of minds.

#### EFFECTS OF INDOCTRINATION

While the anticultural action of the Nazis alienated an intellectual and cultural elite, the average German cared little about what happened to the composer, Paul Hindemith, or to such authors as Thomas and Heinrich Mann, as long as the regime provided bread and circuses. Totalitarianism commits its murders—physical and spiritual—in secret. It may be that such stifling of creativeness backfires in the long run even in the realm of power. Technology, for instance, must suffer when independent research in physics is allowed to wither. But neither the Nazi regime nor the man in the street were much concerned about long-range effects. The



indifference to the results of the control of culture does not mean, however, that the general indoctrination of the public was altogether successful. Nazi ideology penetrated Germans to a lesser extent than is commonly believed. The older generation was, for the most part, too deeply committed to pre-Nazi ideas and beliefs to be easily won over by the new doctrine. While many no longer would voice, or even admit, their beliefs, they still remained skeptical about the new *credo*. Even the youth, upon whose conversion the regime was banking emerged less Nazified in terms of doctrine than might have been expected. An overdose of indoctrination resulted in widespread skepticism or indifference. An analysis of the attitudes of Nazi youth leaders, undertaken by the Nazis themselves, revealed that less than one-third were "spontaneous leaders," imbued with Nazi ideals, and even fewer were ready to give their lives to the service of the Nazi cause. The others cared little about doctrine and more about the fun of "joining" and "belonging" or the material benefits in terms of future careers.

Nazi thought control was probably more successful in the sphere of "information" proper, in the distortion and suppression of news. Doubtlessly, there was throughout the period of Nazism much grumbling and skepticism; the political joke flourished (often tolerated by the regime as a relatively innocuous outlet);<sup>4</sup> but *correct* information did not reach the masses. Underground literature, always a thin trickle, reached very few, as did foreign broadcasts (people who listened were severely punished). Gradually even that which at first had still been recognized as lie and distortion sank in. After the surrender in 1945, foreigners were amazed to find even genuine anti-Nazis believing that "the war had been forced upon us," because "the Poles started it," or that America had declared war on Germany. The story of Nazi propaganda shows that totalitarianism may be unable to instill permanent enthusiasm but may

well succeed in giving the masses a topsy-turvy picture of the world.

### Some Conclusions

Nazism boasted that it had replaced the confusion and inefficiency of parliamentary democracy with a simple and efficient rule. In a way there was some truth in this contention. Only a totalitarian regime, with its elimination of opposition and of all competing values, could have pursued the brutal aim of aggressive war and German world-domination with such singleness of purpose. But quite apart from the question of whether such "simplicity" is a boon to the nation concerned, the Nazi contention was wrong in all other respects. Like the much-vaunted efficiency of Mussolini's Italy, it was a myth created to advertise the regime at home and abroad. Germans soon found out for themselves. Government got ever more complicated. It meant a multiplicity and mix-up of old and new administrations, agencies, and jurisdictions, of state, Party, "Estates," armed services, a maze in which the citizen was lost. Never before had there been so much red tape. Connections meant everything, not to mention outright graft. For, contrary to the traditions of German administration, there also developed corruption and favoritism on an unprecedented scale. Moreover, the seemingly "monolithic" state was not able to eliminate internal pressures and influences working at cross purposes. Interests which in democracies operate more or less impersonally and openly (through parties, legislatures, and in similar ways) were here largely personal. Different "leaders" represented various interests and influences. It is true that the ultimate decision was always the *Führer's*, but Hitler usually avoided taking sides. He preferred to play off one faction against the other as long as possible. Conflicts were thus solved through temporary arrangement and compromise (as in the despised democracies) or through the victory of one clique over another. The losers were pensioned off, or no longer mentioned in official statements, or they might end up in a concentration camp. Thus all that Nazism achieved was the replacement of parliamentary party intrigue with backstage intrigue for power among

<sup>4</sup> One connected with Goebbels' propaganda itself was the following: A priest was charged with having referred to Goebbels (who limped) when preaching "The Lie limps through the world." He denied the accusation and was asked, "But surely you knew that Herr Propaganda-Minister limps?" He replied: "Yes, I know; but tell me—does he lie?"



groups, interests, and personalities. "Jurisdictional" conflicts among agencies usually reflected such power conflicts.

Such personal rule, in contrast to democracy, is further complicated by the problem of continuance. Struggle over succession to the post of a "leader," who is advertised as unique and irreplaceable, threatens the regime at the moment of his death; and during his lifetime the pretenders' jockeying for his favor causes strains and stresses. In this connection Hitler first avoided a decision altogether, then designated Göring as his successor, and later demoted him as a "traitor." Himmler, who was next in line, also incurred Hitler's wrath, and the last days of the crumbling regime saw a dark horse, Admiral Doenitz, nominated successor. This did, of course, also demonstrate that the dictator's power and prestige remained unimpaired to the end; not even his most powerful lieutenants dared to oppose him openly. Unless it is overthrown from without, totalitarian rule can be broken only by disintegration of the entire top organization, as happened in Italy in 1943, when army and monarchy turned against the dictatorship. The fate of the German "resistance" showed that revolts of the people, or the masses, have little chance. Underground resistance in Germany, up to the time of the war, had been chiefly organized by Communists and Socialists, but subsequently other groups joined them, and behind the attempt of July 1944 to overthrow the regime there was a common front, except for the Communists, of all opposition groups, from trade unionists to *Junkers*. But they failed to gain decisive help from the army, and as a result the end of Nazism could only come with total defeat and with Hitler's death in his Berlin bunker. While fascist rule proclaims the substitution of "order" for democratic "anarchy," it is itself liable, in its life or death, to the greatest disorder.

The fall of the Nazi regime through defeat in the war was most befitting. For, in nature and aim, Nazism, unlike any previous system of government (and unlike Communism, with its very specific economic and social goals), was a regime organized for power, and power only. And this meant that it could not persist without war and

foreign domination. Just as it had to eliminate any internal threat to its rule, so it was driven to eliminate any foreign powers that might possibly turn against it. Its own racialist and imperialist program provoked such opposition.

This insistence on force, war, and preparation for war colored the regime's activities everywhere. In all fields it attempted to solve by force what other ages and systems had tried to solve in peaceful ways. Where the aims are the "happiness of the greatest number," individual liberty, or culture, issues such as capitalism *vs.* socialism, individualism *vs.* collectivism are meaningful. When adherents of capitalism and socialism argue about solving the economic problem, they at least agree in that both of them seek ways of satisfying economic wants. Nazism, on the other hand, was not interested in "solving" problems; it subordinated all human endeavor to the exigencies of power. Economy, for instance, was as such made subservient to a non-economic aim, the preparation for war. When that is the sole aim, the only problem is finding the best means to achieve it. Nazism thus had the "easy solution" for the world's great problems, including the international problems. For all world problems are automatically "solved" through the establishment of world rule by one power. Nazi world rule would have exacted only one price, enslavement. For, whatever form Nazi hegemony would have finally assumed, its temporary "New Order" of Europe (1939-45) made it abundantly clear that to the doom of individual and group liberty there would have been added the doom of free and independent nations; to inequality within Germany herself would have been added the hierarchical rule of Germany as a nation and the enslavement of all others. Perhaps there might have been some gradation, with certain groups or countries racially or politically preferred, and others doomed to utter exploitation or destruction, but with equal loss of liberty and extinction of ancient values for all. There are those who feel that ten years ago the United States got into "the wrong war." They forget, because of the present Soviet peril, that Nazi victory, likewise, would have meant the end of Western civilization.

## CHAPTER 3

# Political Reconstruction and Present German Governments

### I. GERMANY IN DEFEAT

A major military defeat in modern times has usually caused changes in the vanquished nation's political structure (for example Russia in 1917, and France in 1871 and temporarily in 1940; see pp. 454, 255, 265). Germany's government was changed by her defeat in World War I, but the effect of the collapse of the Nazi regime in 1945 was more fundamental than the transition from the Hohenzollern Empire to the Weimar Republic. Utmost concentration of totalitarian power suddenly gave way to virtual anarchy. But if the victors of World War II had been confronted only with the problem of re-establishing governmental controls that had broken down under the impact of military defeat, their task would have been comparatively easy. In Germany, however, defeat meant the collapse of an entire regime. As a result, the task that faced the Allies was not merely a matter of restoring technically what had temporarily broken down: of re-establishing lines of control that had disintegrated, or restaffing agencies that had been shifted. To complete the essential aim of the war—destruction of fascism—the Allies had to endow the nation with a new type of society and public life.

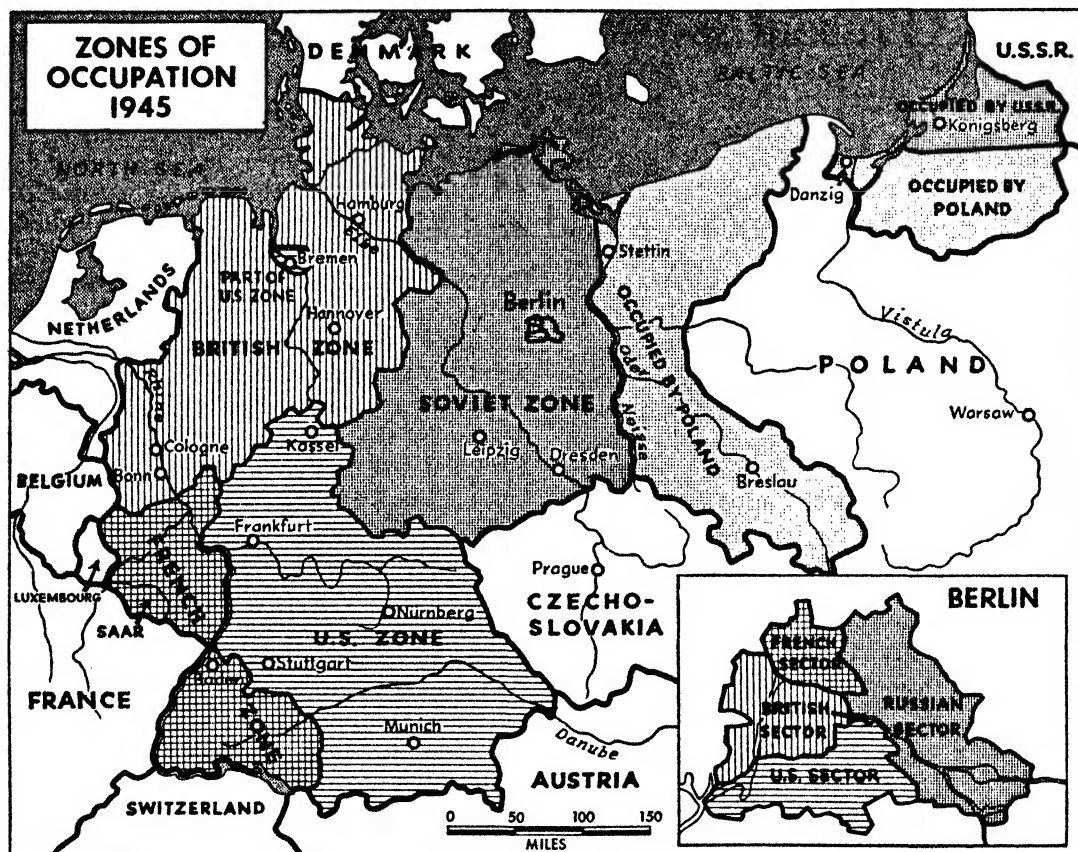
This task required assumption of authority by the Allies. Present German government differs from all previous German government as well as from the other governmental systems dealt with in this book in that it is not "sovereign"; it is based on foreign authority. Different answers may be given to the much debated question whether, after the demise of Nazism, the German Reich has continued legally to exist;

but unquestionably there has been no indigenous sovereign government. In May 1945 Germany surrendered unconditionally, and the Allies occupied all Germany. They dissolved the "government" of Admiral Doenitz, whom Hitler had named his successor but whose actual authority had been limited to the small corner of Northern Germany that by May 1945 had not yet been occupied by the Allied armies. The Allies then declared (June 5, 1945) that, since there was "no central Government or authority in Germany capable of accepting responsibility for the maintenance of order, the administration of the country and compliance with the requirements of the victorious Powers," they assumed "supreme authority with respect to Germany, including all the powers possessed by the German Government, the High Command, and any state, municipal, or local government and authority." This assumption of power, they further declared, was not meant to "effect the annexation of Germany," but, on the contrary, to prepare for eventual restoration of democratic government in a unified Germany.

But the attempt to exercise joint authority through an Allied Control Authority soon had to be given up. For some time "sovereignty" then devolved upon the Allied powers separately in their zones of occupation. Division of Germany into zones had already been agreed upon during the war. The Soviets were given Eastern Germany from the Oder to, and partly beyond, the Elbe river. If Western Allied leaders are blamed now for having granted Russia too much, it must not be forgotten that no one then could tell that at the time of surrender Russian troops would not be on the Rhine, in-

stead of where they turned out to be, namely, on the Elbe. British and Americans agreed on their zones only after much wrangling, and the French were given their share only after the war was over and the other zones had been established and occupied. They got territory adjacent

Thus by 1949 came the establishment of two different "German Republics," the "German Federal Republic," comprising the three Western zones, and the "German Democratic Republic," in the Soviet zone. Berlin, now likewise divided into Western and Soviet-controlled



to France and carved out of British and American areas. The United States zone had finally been fixed in the South of Germany, with the British getting the Northwest (including the Ruhr region).

There were then four Germanies instead of one (not counting the city of Berlin, which had been exempted from the zones and at that time was still governed jointly by an inter-Allied *Kommandatura*). This process of disintegration was succeeded by one of integration of the three Western zones, coupled with gradual restoration of indigenous German autonomy in all zones.

parts, has not yet become formally attached to either unit. German autonomy in the East is more an appearance than a reality, in the West it is more real than it appears to be, but in any event, by the end of 1951 ultimate authority was still in the occupying powers, exercised jointly by the three powers in the West, individually by the Soviets in the East. And since the initial Allied intention to assume authority only temporarily has since given way to determination on both sides to stay in Germany indefinitely, a *united* sovereign Germany seems more remote than ever.

## II. FAILURE TO ESTABLISH GERMAN UNITY

### THE POTSDAM PROGRAM

The inability of the former Allies to restore German unity and independence is explained by the estrangement between the Western Powers and the Soviet Union and the ensuing "cold war." Toward the end of the war there seemingly was a good deal of agreement among the "Big Three" about the future of Germany. Early ideas of partitioning Germany into several independent states, so as to prevent her from ever threatening the peace of the world again, had been entertained by many, especially in France, but had been rejected in favor of German unity by the leaders of the main Allies. It had been a foolish idea anyway, since so nationalistic a people as the Germans could be kept partitioned only through permanent foreign occupation. The Allies had further agreed not to destroy German industry; the ill-famed Morgenthau Plan for rendering Germany more or less an agricultural country had been shelved before the end of the war. The leaders of the Big Three at their meeting at Potsdam (July-August 1945) decided to treat Germany as an economic unit, with common policies for the different zones of occupation. Eventually it was to have its own government. In order to make sure that it would be democratic, a gradual process of political reconstruction was to begin at the local level and proceed to the restoration of indigenous government at higher levels. Although a central German government would be delayed, provision was made for the immediate establishment of central German agencies in fields like economics, finance, and transportation, which were essential since the Allied Control Council lacked executive machinery of its own to enforce common economic policies throughout Germany.

### DIVERGENT ALLIED APPROACHES

This was the Allied program for the re-establishment of a unified and democratic Germany. Why did it fail? The basic reason lay in the Allies' dissimilar conceptions of German reconstruction, which, in turn, went back to their disagreement about Nazism. To the Soviets,

Nazism had been "monopoly capitalism," the "natural" outgrowth of capitalistic developments; a non-Nazi Germany, therefore, had to be a noncapitalistic Germany, and the transformation of bourgeois society into a socialist one was considered a prerequisite of German democratization. The French did not worry so much about the internal system of Germany as they did about its unity; to them, Nazism had simply been another form of age-old German aggressivism, and any strong, centralized, new Germany seemed to foreshadow a repetition of what they had seen so often. Their major aim, therefore, was to keep Germany as decentralized as possible and to use disagreements among the other Allies to forestall reunification as long as possible.

In contrast to the Russians and the French, the Americans and the British had no clear-cut interpretation of Nazism and their own aims were less clear too; therefore they lacked a clear-cut occupation policy of their own. The British Labor government, it is true, had some ideas about backing democratic socialism in Germany, and Americans were, to some extent, convinced that Germans needed liberal-democratic reorientation and "re-education." In actual practice, however, administration was put ahead of policy in order to provide Germans as soon as possible with a functioning government.

French stalling and the "cold war" destroyed the initial Allied unity. Following the split, the Soviets built up their zone as a Soviet satellite, while the Americans and the British (with the French reluctantly acceding) formed an integrated Western Germany on what was basically the old German pattern. These developments began with the Allies' failure, chiefly because of French objections, to establish the central German administrative agencies envisaged at Potsdam. But it may be doubted whether, even with such agencies, a unified Germany under joint Allied control, on the pattern which has prevailed in Austria since 1945, could have emerged. Control of Germany is much more vital to both the East and the West than that of Austria, and it is likely that mutual distrust and the differences in their policy would have driven the Allies apart in any event. In such an atmosphere every step, every proposal, however innocuous

and defensive, is interpreted as aggressive by the other side. Inter-Allied negotiations concerning Germany showed that questions of detail might well have been solved. For instance, the much advertised differences over the political structure of a future German government (which came to the fore at the four-power conference at Moscow in 1947) in reality did not reveal fundamental disagreement. Major points of dispute, such as the federal or unitary structure of government, were close to being solved by compromise; they were, for instance, close to agreeing on a federal system without central police powers, when the conference broke down because of the political rift between the Allies. Willingness to come to terms had diminished. The West, in particular, had come to fear that a unified Germany would permit the Soviets to extend their control over all of Germany. The Soviets, at that time, were still genuinely interested in German unity, but their stubborn insistence on ten billion dollars reparations enabled the West to reject a settlement for which, actually, the United States would have had to pay. The Soviets recognized their blunder of having asked for too much when the Western powers then proceeded to unite the three Western zones; but their attempt, through the Berlin blockade (1948-49), to compel the West to give up this plan failed. At present the rift between the two camps has grown so deep that any rearrangement, however feasible technically, appears too risky politically and strategically. One holds to what one has. Zonal boundaries drawn as lines of military demarcation turn into political boundaries, as in Korea, and "iron curtains" become impenetrable. Each side acts like the drunkard who was found running around a lamppost, muttering to himself: "It's no use; I am walled in."

### III. THE FAILURE OF DENAZIFICATION AND REORIENTATION

Unlike reunification, democratic reorientation demanded spontaneous German action. It called for the voluntary repudiation of the Nazi past. Any nation in whose name deeds like the Nazi crimes were committed must voluntarily cleanse

itself of the past. A sound political community cannot be rebuilt if the most horrid crimes remain unpunished and their perpetrators unmolested. The theory of the "collective guilt" of the German people, which was current around 1945, was nonsense, if only because it would have involved all Germans in a common guilt which, eventually, would have meant *absolving* them all alike. But forgiveness for all was equally impossible. The singling out of active Nazis and their major collaborators was necessary, not for reasons of revenge but because a new democracy could not be established without such a distinction. Germans had to be convinced that "crime does not pay." And the elimination of Nazis from public life was required as a simple measure of precaution in building up a new society and government. The decisive question was whether the Germans, in their majority, realized the necessity of "reorientation" in this broad, moral-political sense of purification, and whether they would act accordingly.

#### Reorientation

##### EVIDENCE OF FAILURE

Today there is no doubt that democratic reorientation, in the main, has not taken place. In 1945, at the time of defeat, the general atmosphere had not been unfavorable. The Nazi regime was discredited and its abominations had just become known to all. Those who had opposed Nazism or suffered under it were still united and ready to establish something new in the place of the abhorred regime. But instead of acting, they waited for the victors' initiative. These, disunited and themselves largely unaware of just what a radical reorientation required, failed to give direction. Thereupon former Nazis, and groups fearing for their vested interests, reasserted themselves. They managed to put anti-Nazis on the defensive. Those who had resisted the Nazi regime and its war were now accused of treason to the German cause; those who stood with the Nazis to the bitter end appeared as true Germans again. Those who, after the surrender, had sprung into the breach and co-operated with the Allies in their reconstruction efforts, are now considered "collaborationists," while those who defied the

Allies are "patriots." Germans who helped with the denazification program are frequently ostracized and unable to get work, while "denazified" former Nazis fill the jobs. What the trials of Nazi criminals revealed in all stark enormity is largely forgotten, or, even worse, the trials themselves are considered to have been acts of revenge and retaliation. Church leaders and well-known statesmen demand clemency even for those few convicted mass murderers whom the Allies did not pardon; those released from prison are greeted as long-suffering heroes. Yalta and Potsdam, that is, the Allies, are made responsible for everything adverse in Germany and the world, not the war caused by Nazi Germany. It would, of course, be exaggerated to believe that most Germans are "neo-Nazis." But a large number still have a Nazi mentality. Opinion polls have revealed that what many condemn in Nazism is not its depravity but its failure to win the war. Perhaps even more significantly, another poll revealed that only 40 per cent of Germans approve of the July 1944 attempt to overthrow Hitler, while as many as 30 per cent disapprove, and another 30 per cent have no opinion. Similarly, over 50 per cent declared that, while they were not in favor of a new Nazi movement, they would do nothing to prevent it from coming into power. The pattern is ominously similar to Weimar. Genuinely democratic forces are suspected, intimidated, victimized, and slandered, while those in favor of the past pose as the true defenders of German honor.

The foregoing statements apply to Western Germany, where a spontaneous public opinion and an unmanaged political life exist. In Eastern Germany "reorientation" of a sort has certainly taken place, but it has been reorientation toward a new totalitarianism, which in many respects resembles the Nazi type, and no independent public reaction is possible under it.

#### GERMAN CAUSES

German democracy today, as under the Weimar system, suffers because it was established by foreign intervention in an environment of defeat, guilt, and distrust of foreign countries. In addition, there was this time national partition; misery, increased by the refugee millions; vast destruction; the memory of the collapse of

Weimar; and, as a legacy of Nazi propaganda, skepticism with regard to any, old or new, creed. Many Germans, although disillusioned with Nazism, considered democracy as just another propaganda slogan of the Goebbels kind, only this time used by occupation powers for their own purposes. This impression was strengthened by the observation that the Allies, instead of taking German traditions into consideration, often advertised and imported, or imposed, their own special brand of democracy. Germans thus were led to look upon democracy as something handed down to them by the victors, instead of learning that it would be democracy only if they developed it by their own initiative.

#### ALLIED RESPONSIBILITIES

The Allies, however, must share responsibility with the Germans for the failure to achieve genuine reorientation. The Germans soon saw that the Allies disagreed even over such fundamental questions as what constituted Nazism and what was democracy. Moreover, the Allies themselves frequently failed to realize the necessity to differentiate between Nazis and non-Nazis or anti-Nazis. Charging all Germans with collective guilt (like the previous demand for unconditional surrender) played straight into Nazi hands. So did stringent measures hitting "good" and "bad" Germans alike: the dismantling of factories, or the expulsion of Germans from their homes into rump Germany under conditions that involved terrible hardship. Germans were inclined to forget the Nazi crimes and to remember more recent injustices.

The initial Allied approach was gradually reversed. Except for Hitler and a couple of his henchmen, all Germans came to be regarded as equally decent fellows in no need of reorientation. Lack of awareness of what Nazism had been, and sometimes outright sympathy with some of its policies, was widespread among Americans, at home and in Germany. This Allied attitude was often confirmed by the types of Germans who were consulted: the "better people," officials, clergymen, members of the professions, businessmen, in general those who more frequently spoke English (or French) than the "rabble" but among whom resisters and anti-Nazis were less numerous. The latter, far



from getting the Allied backing they so badly needed, were thus put on the defensive by the Allies themselves; occasionally they were considered "traitors to their own nation."<sup>1</sup>

Such attitudes were frequently accompanied by preference for the economic and social *status quo* in Germany, which Americans in particular mistook for "free enterprise," but which actually meant favoring forces that had been the backbone of German authoritarianism and the ally of fascism. Anti-Nazis advocating even mild reforms were consequently regarded as radicals or even Communists. Former Nazi collaborators, on the other hand, recommended themselves as the only reliable anti-Communists and were gradually confirmed in their economic and social positions. This tendency was aided by the attitude of those who opposed "political measures," such as denazification, because they seemed to hamper or delay the technical task of reconstruction; experts, even if Nazi-tainted, were preferred to anti-Nazi amateurs. Thus the traditional German alliance between big business and bureaucracy was allowed to reaffirm itself in Western Germany.

In the East the contrary view prevailed: Any member of the middle class was automatically suspect; but by joining the official Party, the SED, anyone could buy forgiveness of all previous sins, including collaboration with Nazism. Thus the split among the Allies eventually made either side regard as a potential ally any German, regardless of his past record or even present attitudes, if only he seemed promising in the struggle against the other side. The "cold war" proved fatal not only to German unification but also to democratic reorientation.

### Denazification

Denazification offers the prime example of how reorientation was attempted and how and why it failed. Failure of denazification was itself partly cause and partly effect of the failure of reorientation in the broader sense. Cause,

because the removal of active Nazis from positions of influence in public office and other important posts was a precondition of rebuilding, or building, democratic habits and institutions; effect, because such removal could only take place in an environment where, at least for the time being, Nazi influences and pressures were replaced by a will to create the bases of a non-Nazi society.

In 1945 the Allies were still generally agreed that denazification was necessary. But the process of denazification was confused with other tasks, for instance, with sifting the entire German population for traces of Nazi background, or with punishing those responsible for Nazi crimes, or with rooting out entire social classes which were thought responsible for the rise of the Nazi system. The result was failure, whether—as in Western Germany—in the sense that nothing was achieved except the whitewashing of even the active and dangerous Nazis and Nazi collaborators, or—as in Eastern Germany—in the sense that denazification procedures were used to produce a new-style totalitarianism.

### DENAZIFICATION IN EASTERN GERMANY

What happened in Eastern Germany is more easily understood. A regime that has a monopoly of political power can afford to be thorough and lenient at the same time. Former Nazis in large numbers, many well-known, could safely be allowed to hold or regain positions as long as the new rulers controlled them. After the more conspicuous Nazi leaders had been tried for war crimes (see pp. 724-25) or dismissed from office, the ruling SED appealed to the remainder for collaboration. Application for SED membership would buy forgiveness of a doubtful past. Most former Nazi "followers" now "follow" the new "state party." Shortly after the establishment of the Democratic Republic all restrictions on former Nazis, including those referring to the right to hold public office, were rescinded. On the other hand, charges of being a "fascist" or "fascist collaborator" served to expropriate the middle classes and thus to transform economy and society, whether the individual concerned had been an active Nazi or not.

<sup>1</sup> "I can remember one visiting Congressman . . . who refused to sit in a meeting with German state officials supporting the denazification program and denounced them as traitors to their countrymen." (Lucius D. Clay, *Decision in Germany*, New York, 1950, p. 259.)



## DENAZIFICATION IN WESTERN GERMANY

In Western Germany a policy of wholesale forgiveness would have incurred more serious risks. It was not only that most of the more active and therefore dangerous Nazis had fled to the Western zones at the approach of the Soviet armies. The main reason was that in a system which, in contrast to Eastern Germany, lacked political control by one group such forces as the Nazis had a real chance to regain influence if, in addition to having freedom of political action, they were left in responsible positions. For this reason, denazification, if it was to be successful, could not be limited to a "punitive" phase of Allied occupation; it was a prerequisite of democratization. Its failure cannot be shrugged off as "past history"; it affects present and future political life in Germany.

## WHAT HAPPENED: FACTS

What happened can be most clearly gathered from events in the American zone, where denazification was a genuine effort by the occupation power to achieve what may be called a "revolution by decree" (to make up for German failure to eliminate Nazis through genuine revolution). But what began with a bang died with a whimper. In 1945 large numbers of Germans, rather mechanically adjudged to be Nazis because of previous party membership or the position they had held under the regime, were interned by the Military Government<sup>2</sup> or dismissed from office. Shortly thereafter (too early, as it soon appeared), in order to provide for fairer and more individualized treatment, denazification was made a German responsibility. The 1946 "Law for Liberation from National Socialism and Militarism" (enacted by Germans but largely devised by MG) provided for German local boards which, on the basis of questionnaires to be filled out by every adult inhabitant of the zone, would classify those affected by the law as Major Offenders (class I), Offenders (class II), Lesser Offenders (class III), or mere Followers (class IV). Those found not affected by the law were exonerated (class V). The law was not meant to be a criminal law but rather a political measure, inflicting administrative

sanctions on major Nazis in order to prevent them from engaging in public life and important political or economic activities, while imposing fines on minor Nazis as a kind of reparation for the damage caused by the regime.

But this sifting of the entire population was a tremendous task, for which the Germans were hardly prepared. Its success—if at all possible—would have required, above all, a readiness by the large proportion of Germans not affected to purge Germany from Nazism, and the Military Government's full backing of German board members, prosecutors, and witnesses. Instead, MG backed down when the Nazis and their sympathizers set out to sabotage the program through blackmail, bribery, and intimidation. In an intra-MG feud between Special Branch and General Clay's adviser on denazification, the latter emerged victorious, when American public opinion, at first in favor of denazification, turned against it. Amnesties and similar measures provided for wholesale extenuation exactly at a time when the hard core of "major Nazis" had not yet been tried. Denazification became a political liability for German democratic groups and parties which at first had backed it. Anti-denazification sentiment, encouraged by the breakdown of proceedings under the load of cases, was heightened by propaganda which decried an alleged *ex post facto* punishment of mere "political error" or opinion. "The followers of the Party became the party of the Followers." Cases where denazification was misused for personal revenge or denunciation added fuel to the fire. The main issue was lost sight of. The over-all result was that some Nazis had been temporarily deprived of jobs or positions, some had even landed in internment camps for a while, and many had paid a low fine (MG having insisted on the ridiculously low maximum of 2,000 marks) in worthless currency; after this interlude the way was opened toward the renewed control of public, economic, social, and political life by persons thus "denazified." The effects of denazification (such as suspension from office) were temporary at best and ceased exactly at a time when elimination of Nazism would have been most necessary, namely when the new administrative machinery of Western Germany was established.

<sup>2</sup> From now on referred to as MG.

## WHAT HAPPENED: FIGURES

The insignificance of denazification is revealed by an analysis of final figures. By summer of 1949, when the program was all but completed, out of 13 million registrants in the American zone 3.4 million had proved to be "chargeable" cases; 2.5 million persons thus charged with having been major or minor Nazis were amnestied without board trial. Of the remaining 900,000, an additional one-third were found by boards to come under one or another amnesty, and 2 per cent were exonerated. A little over one-half were classified as "Followers," 11 per cent as Lesser Offenders, 2.3 per cent as Offenders, and 0.17 per cent as Major Offenders. Thus the greater proportion of persons tried were put under no sanctions except payment of a fine. Labor camp sentences (the only quasi-penal sanction provided for in the Law) were usually deemed "served" through internment preceding trial. By the summer of 1949 there were only 379 inmates in such camps out of some 9,000 so sentenced. Some 20,000 were held ineligible for public office. But ineligibility was automatic for anybody found to have belonged to certain categories of Nazis and therefore affected many who never had been or had any intention of being in public office. *Land* laws are now being drafted which will lift restrictions on employment and similar restrictions even for those persons classified as Major Offenders.

## WHAT HAPPENED: CASES

Figures may be misleading. Possibly there were really not many dangerous, "active," Nazis, and accordingly their number was bound to appear insignificant in the process of sifting millions. A careful analysis of individual trial cases, however, shows that such an assumption is false. The Liberation Law defined as "major Nazis," among others, those who "gave major political, economic, propagandistic or other support to the National Socialist tyranny." Denazification, under this standard, should at least have affected the leaders of the Party hierarchy, the intelligentsia who provided the mental climate for fascism, the propagandists who spread the poison concocted by the intelligentsia, the

major managers of the terror machinery of state and Party, militarists who adopted the Nazi creed and willingly applied the terror, and industrialists who actively joined in to profit, exploit, and enslave. But cases picked at random show an author of rabidly Nazi books classed "Follower," because of his "soldierly-humanitarian attitude"; a prominent Nazi journalist set free to re-engage in his trade after the payment of a fine; a high Gestapo chief made similarly employable again; high Party leaders, including some *Gauleiter*, set free, their previous internment counted against labor camp sentences; and Nazis who had held top civil service positions so classified that they became entitled to retirement pensions or to re-enter the service.

It is therefore not surprising that in most administrations today former Nazis are again in the majority. This would not be so disturbing, had denazification eliminated the more active ones from among their ranks. That this is not so is shown by the cases mentioned above as well as by the numerous instances in which former Nazis, amnestied, exonerated, or classified "Followers," are by accident (during somebody else's trial or in similar circumstances) revealed to have been major Nazis, sometimes even "war criminals." The presumption that the numerous Nazis now back in positions of influence are all denazified "minor" Nazis thus does not hold. Denazification procedures, in the end, served merely to provide even major Nazis with documents attesting to their "denazification" and entitling them to replace anti-Nazis who had taken their places.

## WHAT CAUSED DENAZIFICATION TO FAIL?

There are some who believe that technical shortcomings were the main cause of this fiasco, which, they say, might have been avoided if only those guilty of actual crimes had been prosecuted. Those who argue thus fail to understand that denazification should have been primarily a purge, not a punishment (on war crimes trials see pp. 724-25). Much misunderstanding, it is true, might have been avoided by confining denazification more strictly to this preventive purpose, instead of adding penal

sanctions, such as internment in "labor camps." Others maintain that it was the magnitude and complexity of the program that brought about its downfall. There is much to this argument. Under the program of wholesale sifting, procedures were clogged and cases where "nominal" Nazis needed clearance in order to be employable again were delayed while major Nazis were able to "disappear" in the mass of minor cases. Left to their own resources, local lay prosecutors and board members were unable to dig up the facts about major Nazis who were not locally known; further, many of these major Nazis had shifted from place to place, and from zone to zone, and no effort was made to coordinate and centralize the search. It is easy to realize now (and even General Clay does so) that "it might have been more effective to have selected a rather small number of leading Nazis for trial without attempting mass trials"; for instance, one might have sifted individual offices, agencies, institutions of learning, and thoroughly checked new applicants for office, instead of sifting the entire population. Still it would appear that the fiasco cannot be attributed to technical factors exclusively.

Are those right, then, who claim that denazification was bound to fail because of the intimate connection between Nazism and Germany's social structure? It is true that political factors played a role, as individual cases amply prove. Authoritarian attitudes joined with vested economic interests to oppose any large-scale purge which would have amounted to a revamping of Germany's social structure. But it is believed that such opposition need not have prevented success of a less ambitious purge which would have affected only selected categories of particularly dangerous Nazis. Some, if by no means all, obstacles to democratic reconstruction and some rallying-points of neo-Nazism might have been removed this way. As it was, denazification was made a German responsibility either too late or too early. Had anti-Nazis been put in charge in 1945 they would have found that the population, still deeply dismayed with Nazism and impressed with its misdeeds, was ready to co-operate. But the propitious moment was allowed to pass, and when traditional attitudes

and forces had reasserted themselves, Germans entrusted with denazification faced a task which, without powerful Allied backing, was all but impossible.

#### THE DANGER OF NEO-NAZISM

At this stage there is probably nothing to be done but "forgive and forget," as even sincere German democrats suggest. For, by now, everybody in Germany is disgusted with the interminable procedures and investigations which have made denazification a byword for inefficiency and corruption. But one should not overlook the dangers lurking in this situation. It is one thing to "forgive" after judgment and repentance; it is quite another thing when forgiveness is claimed as a right by those who have failed even to admit guilt or error. They then emerge as moral and political victors over their accusers at the expense of the prestige of democracy. How can democrats, then, object, when Nazi influence re-invades all fields of political and public life? When Nazis take over newspapers again, or movie interests, thus controlling important media of public information? When they reassert themselves in education, particularly at the universities? When they occupy leading positions in political parties and even take over cabinet posts?<sup>3</sup> When they invade the field of re-established diplomacy and the administration in general? For, while former Nazis are not yet numerous in key administrative positions, the absence of genuine civil service reform and the presence of large numbers of "denazified" former Nazis in the ranks renders the service a potential victim of neo-Nazism. Today we see that the failure of denazification in Germany is related to other ideological and political shifts in Europe between 1945 and 1951. It parallels the failure of the purge of Fascists in Italy, and even of the fascist and Nazi collaborators in countries like France, Belgium, or Austria. The lesson is clear if a future change in or downfall of a regime should ever put "reorientation" on the agenda again.

<sup>3</sup> In 1951, every member of the cabinet of *Land* Schleswig-Holstein was a former Nazi, including the minister-president; two had been SS officers.

#### IV. GOVERNMENTAL RECONSTRUCTION IN THE TRANSITION PERIOD (1945-1949)

The result of the territorial split and the failure of reorientation was a new totalitarian system in the Eastern zone, and a formal democracy with strongly authoritarian features in Western Germany. These systems, with their corresponding governments, became firmly established in 1949. The details of what happened in the four intermediary years may perhaps be omitted in favor of a broad sketch of over-all developments.

##### REVIVAL OF POLITICAL LIFE

Revival of the procedures and institutions of political democracy started at an early point in all four zones. The Potsdam program had provided that "representative and elective principles" be introduced progressively into local, then regional and *Land* government, and that "democratic political parties with rights of assembly and of public discussion" be encouraged. Consequently, elections were held, first for town and city councils, then for *Land* diets, in which parties all claiming to be democratic, from Rightist "Liberals" to Communists, participated. Officials and cabinets, initially appointed by Military Government, were made responsible to such councils and diets, and government was organized in the *Länder* on the basis of constitutions adopted in more or less orthodox fashion. As early as summer 1947, Germans were blessed with twelve new constitutions in three zones (the British zone being the exception), and with elected diets in all.

##### ITS SHORTCOMINGS

This democratization, however, was more a form (or, at best, a promise) than a reality. High voting figures made Allied officers assume that Germans now understood and underwrote the processes of democracy. In reality, Germans, hungry and miserable, did simply what they thought would please the occupiers and thus produce higher calorie rations. Moreover, local and regional autonomy meant little, since the reconstruction of a war-torn country like Germany required large-scale planning and cen-

tral policy decisions. Activities that affected the average German most vitally, such as rationing and price controls, food delivery quotas and the amount of permitted industrial production, were outside German jurisdiction. Such matters were handled for entire zones, and even where the Allies used Germans on the zonal level, they were agents of the occupying power, not "responsible" administrators. Thus, in the British zone, German zonal agencies were largely staffed with former ministerial officials, while in the French zone no German zonal authorities were allowed at all. In the American zone a Council composed of *Land* prime ministers was, more democratically, in charge of co-ordinating affairs of the zone, but even this was more of an administrative agency than an authority responsible to people or parliaments. In the Soviet zone, establishment of zonal agencies staffed by Germans was less significant than the fact that the Communist-controlled "antifascist bloc" of parties became the instrument of Military Government, whose decisions the popularly elected assemblies and "responsible" government officials merely ratified. But in the Western zones, too, even on the local and *Land* levels, German autonomy did not mean freedom from interference by MG, which everywhere reserved and exercised powers of vetoing laws and removing officials.

Most Germans thus came to regard German government largely as dependent government, German officials as Allied "stooges," and the processes of democracy as a sham or, at best, the innocuous pastime of a limited circle living for and from politics. It is now clear that the introduction of formal democracy should have been postponed until MG was ready to hand over genuine policy-making powers to Germans. First should have come those basic changes (genuine denazification, democratization of the civil service, land, business, and educational reforms) which are the prerequisite of political democracy in Germany. This, it is true, would have had to be done by *fiat* of the victor, but it might have provided Germans with a sounder basis for subsequent reconstruction of democratic government. Instead, MG in the West divested itself too early of exactly those responsibilities which the Germans proved unready or

unable to assume, while they were *not* put in charge of the more technical tasks" (economic administration and so forth) which they were able to perform. In the Soviet zone, on the other hand, basic reforms *were* inaugurated by the conqueror's *fiat*, but they of course were not followed by genuine German self-government.

#### ECONOMIC INTEGRATION IN THE WEST

The Western Allies, in the absence of all-German unification, could at least unify their three zones. Economic preceded political integration. While the French balked, Americans and British merged their two zones economically in 1947. German "bizonal" agencies were fashioned into something resembling responsible government. There were an Economic Council, elected directly from *Land* diets and with legislative powers; a second chamber, representing *Länder* interests; and responsible heads of departments. In organization this foreshadowed the present Bonn government. In substance, it contributed little to democratization. Major jurisdictions were still reserved to the Allies, others remained under MG veto, and even where Germans *did* have a free hand, actual power was with the bureaucracy, which staffed the executive part of the new agencies, rather than with the people and their representatives. In good old German fashion, and with considerable encouragement from MG, the officials considered efficient administration vastly more important for German reconstruction than submission to what appeared as pressure group tactics or doctrinaire policies of parties and diets.

#### ESTABLISHMENT OF EASTERN AND WESTERN GOVERNMENTS

Establishment of the present political German units of government, the Federal Republic of Germany (*Bundesrepublik Deutschland*) in the West and the German Democratic Republic (*Deutsche Demokratische Republik*) in the East, followed in 1949. In this the Western Allies took the initiative. The Soviets made it a rule always to trail the West by one step so as to shift responsibility for "splitting" Germany to the West and to pose as defenders of German unity. While this propaganda, by and large, has

failed to deceive Germans, it still forms the basis of Soviet and Communist efforts to rally them to the Eastern cause.

In establishing their Republic, the three Western Allies (joined at times by the Benelux countries) had first to agree among themselves and then, in the interest of democracy, to work with the Germans. The process was long and awkward, but the result was a degree of genuine German self-government. In the Soviet zone there was no outward sign of Soviet interference; Germans were ostensibly left free to draft and adopt their new constitution, and there were no official reservations of Soviet authority. In reality, however, it was a foregone conclusion that the Socialist Unity Party (SED) would act as the Soviet agent and adopt the pattern which prevails throughout the Soviet orbit. The result was a puppet state, externally as much or as little sovereign as any other Soviet satellite, and internally as pseudo-democratic as any other "people's republic." In the West the Germans, exploiting Allied disagreements, wrested more actual independence from the Powers than was granted in the East, and subsequent concessions have led them still closer to their goal of full sovereignty, or as nearly sovereign as any country can be in a world where actual power is more and more monopolized by two "super-Powers." Internally, while authoritarian tendencies are still strong, the framework in which government operates is that of constitutionalism and democracy.

In one point, however, both Western and Eastern German regimes agree. Both claim to be provisional, pending eventual German reunification. In the absence of a single German government both claim to represent *all* Germans, and each denies the other's popular mandate and legitimacy. In this they are backed by the respective Western and Eastern blocs of Powers. All we can say "objectively" is that there co-exist two major units, one, the Federal Republic, still under joint American-British-French control, the other, the Democratic Republic, *de facto* under Soviet control; two minor units, namely West and East Berlin, a Germany in miniature, with the three Western sectors of the city under the control of a tripartite Allied *Kommandatura*, and the Eastern sector under

# GERMANY TODAY





Soviet control, but both not yet formally included in either "Republic." Since the government of the Democratic Republic has its seat in East Berlin we have here the rare case of a state having its capital outside its own territory. In addition, there are the Saar region, *de facto* detached from Western Germany and set up as a kind of French protectorate, and, finally, the territory east of the Oder-Neisse line, *de facto* incorporated into Poland and the Soviet Union, respectively. Since all these arrangements were originally made "pending final disposition" in a formal peace treaty between all of Germany's enemies and a united Germany—an agreement which now seems unobtainable—the question as to what all this constitutes *legally* seems as unanswerable as was the question concerning the legal condition of Korea prior to the Korean war. What Germany, like Korea, will be *in fact* depends on the development of world relations.

## V. WEST-GERMAN CONSTITUTION AND GOVERNMENT

### *Drafting of the Bonn Constitution*

Constitution-making in Western Germany started with an agreement reached by six Western countries (United States, United Kingdom, France, Belgium, Netherlands, Luxembourg) at London, June 1, 1948. This agreement set the goal ("that the German people in the different states . . . establish for themselves the political organization and institutions which will enable them to assume . . . governmental responsibilities"), prescribed procedures ("the minister-presidents will be authorized to convene a constituent assembly in order to prepare a constitution for the approval of the participating states"), circumscribed contents broadly ("a federal form of government which adequately protects the rights of the respective states, and which at the same time provides for adequate central authority and which guarantees the rights and freedoms of the individual"), and put limits to future German autonomy through reservations concerning disarmament and the Ruhr. A further limitation, not mentioned in the London instrument, was contained in the

so-called Occupation Statute (cf. below), which reserved certain powers to the Allies.

### THE RUHR ISSUE

The limitations concerning disarmament and the Ruhr by 1951 had become rather pointless. Western Germans, to be sure, were still forbidden to rearm and engage in research and production closely connected with armament, and an inter-Allied Military Security Board was in charge of supervision; but integration of Western Germany into the North Atlantic defense system was shifting the accent toward rearming rather than demilitarization. As for the Ruhr, the London agreement sealed the French failure to detach this industrial heart of Germany politically from Germany. Instead, there was established an International Ruhr Authority, whose main function has been to allocate Ruhr coal and steel between Germany and other countries. Politically, this was to prevent the Ruhr from becoming a German "arsenal of aggression"; economically it was to assure adequate supply of coal to the other European countries. But economically as well as politically the accent is now on integration, as witness the Schuman Plan for pooling the coal and steel resources of Western Europe. The Ruhr Authority was scheduled to disappear if and when the Schuman Plan was put into effect.

Having been authorized to draft a constitution, Western German politicians devoted their main effort to avoiding an impression of taking irrevocable steps toward splitting Germany. The Minister-Presidents of the eleven *Länder*, therefore, objected to calling a "constituent assembly," to final popular vote on the constitution, and even to the term "constitution" itself. Instead, they agreed with the Military Governors on calling a "Parliamentary Council," to be chosen by the *Land* diets on the basis of relative population figures of the *Länder* and proportional strength of parties in the diets. The constitution was to be called "Basic Law" (*Grundgesetz*) and ratification was to be by at least two-thirds of the *Land* diets. The result was a full-fledged constitution, with the lack of direct popular participation in its preparation and adoption made up to some extent by the



subsequent election of the first Western-German parliament.

#### THE ISSUE OF FEDERALISM

The present "Basic Law," usually called the "Bonn Constitution" from the present capital of the Federal Republic where the Parliamentary Council convened,<sup>4</sup> is the result of compromise between the Allies and the German parties. With both the main issue was that of federalism, i.e., "states' rights" *vs.* centralism. Surprisingly, other basic issues, such as the type of parliamentary system to be set up, powers of the executive, guarantees and restrictions of civil liberties, received relatively scant attention, although in these fields there are important innovations. Regarding federalism, the French and the Bavarian particularists favored a loose federation of autonomous states, with only a few common (central) departments. But British and Americans believed such a solution unworkable, and there was indeed, with the exception of Bavaria, no strong feeling in Germany for a particularist structure.

Thus the loose-federation idea was ruled out, and the issue was narrowed to the delimitation of powers between central (federal) government and *Länder*. There was agreement that *Länder* influence in central government be safeguarded by a second chamber (*Bundesrat*, or Federal Council); but while the Left (chiefly the Social Democrats) wanted it to be elected directly by the *people* in the *Länder* (like Senators in the United States), the more authoritarian Christian Democrats wanted it to be a body of delegates appointed by the *governments* of the *Länder* (as under the Hohenzollern and Weimar systems). While the more centralistic Socialists wanted it to have a suspensive veto only (as under Weimar), the more "states-rights"-minded Christian Democrats wanted it to have equal powers with parliament in law-making (as under the Hohenzollerns). The result was a compromise on the Weimar pattern: the Socialists conceded the "bureaucratic" type of Council, with delegates appointed by the *Land* governments, while the Christian Democrats agreed to the suspensive veto. The ques-

tion of how to delimit the fields of federal power against those of *Land* powers was likewise solved on the Weimar pattern. In most of the important legislative fields the *Länder* may legislate as long as the federal government does not. The authority of the central (federal) government is somewhat restricted in administrative fields, and it is less strong than under Weimar in financial affairs, especially regarding sources that may be taxed.

It is doubtful that even this moderate federalism means much today. Except for the Bavarian particularists, who object as strongly to what they call a Bonn "dictatorship" as they previously objected to rule from Berlin, all Germans, including the Christian Democrats, stand for strong central powers, without which, they realize, German sovereignty cannot be restored and maintained. In particular the Christian Democratic Union (CDU), a largely Catholic party, can afford to renounce the states' rights policy of its predecessor, the Center Party, because in the present Western Republic, Catholics no longer are in a minority. And the Allies, despite lip-service paid to "decentralization," increasingly favor strong central authority. For instance, while during the drafting of the constitution they strongly insisted that police powers be reserved to the *Länder*, they later permitted the establishment of a central police force.

#### ADOPTION OF THE DRAFT CONSTITUTION

With the problem of federalism out of the way, adoption of the draft constitution proceeded smoothly. The final vote was 53 to 12, the minority comprising some Bavarians and a few representatives of smaller parties, among them the Communists. Social Democrats and Christian Democrats were able to agree on a constitution because workers as well as middle classes realized that German sovereignty on a non-Communist basis could only be attained through adoption of a democratic-parliamentary structure of government. The "Basic Law" was then approved by the three Military Governors and ratified by the *Land* diets, with all but the Bavarian diet voting for it. It was promulgated on May 23, 1949.

Elections for the new parliament (*Bundestag*), the first free German election of a central

<sup>4</sup> Like Weimar, Bonn, Ludwig van Beethoven's birthplace, is of German cultural fame.

parliament in seventeen years, were held on August 14, 1949. The two parties chiefly responsible for the "Basic Law," Christian Democrats and Social Democrats, emerged as victors; their opponents, Rightists as well as Communists, were soundly defeated. Although, strictly speaking, this was not a vote on the new Constitution, it meant politically its popular confirmation. *Bundestag* and *Bundesrat* then convened, and with the election of a Federal President and a Federal Chancellor, and with the formation of a cabinet, a federal government had been organized by the end of September 1949.

### **Allied Reservations**

Allied approval of the Constitution had been accompanied by reservations. The essential ones were contained in the Occupation Statute simultaneously promulgated by the three Allied Military Governors: Certain fields, such as demilitarization and security of the Allied occupation forces, restitution and reparations, were specifically reserved to the Allies and exempted from German jurisdiction; in the fields left to German autonomy, the Allies reserved the right to disapprove amendments of the Constitution, to veto within twenty-one days agreements between the Federal Government and foreign countries, and, in exceptional cases, to repeal any other German law; finally, the Allies reserved the right to resume "full authority" when "essential to security or to preserve democratic government in Germany or in pursuance of the international obligations of their governments." These rights, and especially the last reservation, rendered the Occupation Statute a superconstitution over the "Basic Law." Ultimate authority in Western Germany still rested with the Allies. They exercised it through a civilian Allied "High Commission," into which MG was transformed, that consisted of a Council (the three High Commissioners), inter-Allied committees and agencies, and *Land* Commissioners at each *Land* capital. Decision, in most instances, was by majority vote in the Council, with an outvoted High Commissioner having an appeal to his government; in the event of such an appeal, final decision was by majority of the three governments themselves.

These Allied rights and the corresponding

restrictions of German autonomy have been whittled down considerably since 1949. A formal agreement between the High Commissioners and the Federal Chancellor of November 22, 1949, in return for rather vague German promises regarding denazification and democratization, granted Germans major concessions in economic matters, such as shipbuilding and dismantling of factories, and gave them the right to establish consular and commercial relations with other countries and to participate in international organizations. In March 1951 Germans were granted the right to establish a foreign office and to take up full diplomatic relations with foreign countries; in addition, important "reserved powers" of the Allies, as in the field of deconcentration and decartellization of industry, were to be restored to German autonomy after enactment of satisfactory German laws in these matters. In return the Republic recognized liability for prewar and postwar external German debts.

Toward the end of 1951 the entire occupation regime, which at that time was still based on the unconditional surrender of Germany in 1945, was due to be replaced by a "contractual agreement" between the three powers and the Federal Republic, under which their mutual relations were to be arranged on the basis of German equality. The remaining powers of the Western Allies, such as continued military occupation of Western German territory, were to be retained by agreement on the part of the Germans. Whether the "contractual agreement" should also give the Allies a general right to intervene for the protection of the democratic order of the Republic in case of a threat from the totalitarian Right or Left, was by that time still a matter of discussion, as was the problem of who should bear the costs of occupation. But it meant that a system of rule over a vanquished nation was to be replaced by one of partnership in a common venture.

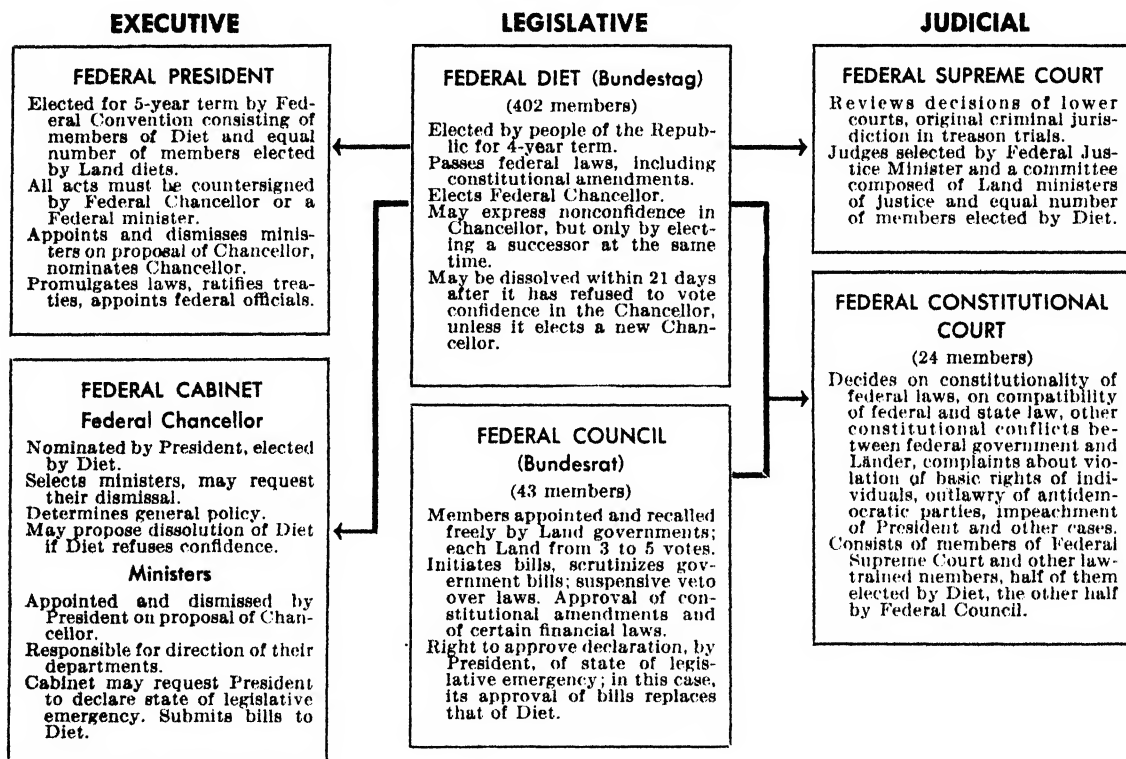
### **The Structure of the Bonn Government**

Insofar as internal government is concerned, the Republic thus established is seemingly federal, liberal, and democratic. But federalism is giving way to central bureaucratic controls; and "liberal democracy" is confronted by certain

authoritarian features. These are chiefly connected with the Chancellorship. In contrast to Weimar, the President is weak. He now is not popularly elected, and he does not have his own powers of dissolution or emergency. The Chancellor has emerged as the "strong man." He

tion of the four-year term. This comes close to the "Swiss" version of parliamentary regimes, according to which the executive, once it has been established by the diet, continues to stay in office for the remainder of the parliamentary period. In countries with a firm parliamentary

## STRUCTURE OF THE WESTERN GERMAN FEDERAL GOVERNMENT according to the Constitution of 1949



cannot easily be gotten rid of by parliament, for, to avoid executive instability and frequent cabinet crises, the Bonn Constitution goes far beyond what other postwar constitutions (such as the French, pp. 316, 333) have provided in this respect: Under Bonn, a vote of non-confidence, to be effective, requires that a majority of the legal membership of the *Bundestag* simultaneously elect a successor to the Chancellorship. This means that the opposition must agree on a new cabinet before the overthrow of the old one. Once elected at the beginning of the legislative period, a Chancellor may thus be reasonably sure to stay in office for the dura-

tion, like Switzerland, the executive can be relied upon to follow the directives of the assembly. In Germany, with her authoritarian tradition, there is a danger that it will not. In addition, under the Bonn Constitution, the Chancellor is free to appoint and dismiss ministers; he may even maintain them in office in the teeth of parliamentary disapproval, since there is no provision for voting non-confidence in ministers. This resembles the Chancellorship of the Hohenzollern Empire. When there is added to this a provision under which parliament may vote on measures or bills requiring new expenditures only with Cabinet approval,

and a provision protecting the traditional prerogatives of the civil service, it may be that the effort to avoid executive instability has shifted the weight too much to the executive side. Actually, with the aid of an entrenched bureaucracy, Chancellor Adenauer has ruled Western Germany since 1949 on a rather paternalistic pattern.

In regard to "liberalism," that is, the rights and freedoms of individuals and groups, the Bonn system likewise tries to avoid extremes and to combine liberal-democratic principles with the protection of state authority. The Nazi experience produced a desire for strong guarantees of political liberty and personal security; the Weimar experience, on the other hand, called for safeguards against groups which might misuse liberal provisions for their own, antidemocratic interests. As a result, the Constitution, on the one hand, goes far in defining liberal rights and even protect them, to some extent, against suspension by statutes or constitutional amendment. But other constitutional provisions permit exactly that infraction of rights which one wanted to avoid. For instance, whoever abuses the main rights of freedom (of opinion, association, and so forth) "in order to attack the liberal democratic order," forfeits these rights; or, parties which are hostile to this order or seek "to jeopardize the existence of the Republic" are declared "unconstitutional."<sup>5</sup> We have here an attempt to cope with one of the difficult problems confronting democracies in the face of totalitarian danger: how to protect the constitutional order effectively without destroying the freedoms on which this very order rests. It seems natural enough to exclude from the enjoyment of democratic rights and freedoms those who are out to destroy democracy. The problem is: Who is to decide whether a group is "state-hostile" or "antidemocratic"? The danger is in too broad or partial an application of such provisions.

<sup>5</sup> In 1951 a "Law for the Protection of the State" put heavy penalties on all kinds of actions deemed "state-hostile," including publication of "state secrets" and "defamation" of leading personalities, like Cabinet members. It is easy to see the dangers to freedom of opinion, especially the press, in such laws.

## VI, EAST-GERMAN CONSTITUTION AND GOVERNMENT

### General Developments

In evaluating the East German, or Democratic, Republic correctly, developments other than constitutional have to be taken into account, perhaps more so than in Western Germany. The Bonn Constitution, despite undemocratic undercurrents, does provide the "rules of the game" for genuine social and political forces, but the Eastern-German Constitution today is simply a façade behind which totalitarian government proceeds according to its own rules.

### INITIAL REFORMS

Developments in Eastern Germany began more auspiciously than in the West. Initial social and economic reforms, some of which were long overdue, contrasted sharply with the conservatism which, in this respect, characterized Western Germany. The *Junker* estates were divided among the peasants, industrial combines were dissolved, reactionary and Nazi-tainted officials were purged, war criminals were brought to justice. Political parties were allowed to reorganize themselves, and genuinely free elections to local assemblies were held. Such measures pointed the way toward democratic reorganization of German public life. But all developments toward political democracy were abruptly halted when the Soviets realized that their "chosen instrument," the Communists, were unable to gain control through democratic means. Their chief political competitors, the Social Democrats, were thereupon forced to merge "voluntarily" with the Communists. In the ensuing "Socialist Unity Party" (SED) the Communists assumed the role of senior partner. While this shotgun marriage failed to convert the bulk of Social Democrats to Communism (1946 elections in Berlin, where the Social Democrats still operated freely, gave them a near-majority, while the SED won only one-fifth of the vote), it made non-Communist leftists politically homeless in the zone. The two still existing "bourgeois" parties, Christian Democrats and Liberals, profited from this, and

despite their seemingly socialist policies the Communists failed to command even the loyalty of the workers or, despite land reform, that of the peasants. A major reason was that Soviet policies were self-defeating. As Communists, the Soviets desired to appear as friends and liberators of the "exploited German masses," but as Russians, who had suffered from Nazi ruthlessness, they were inclined themselves to exploit their portion of Germany so as to restore their own economy. Thus, in the process of nationalizing German industry in the zone, they would ship to the Soviet Union entire factories, complete with installations and skilled workers, or they would take over the enterprises where they were and run them themselves. German workers gained nothing from exchanging a German private employer for the Soviet state, not to mention the restrictive labor policies introduced subsequently.

#### POLITICAL "CO-ORDINATION"

Having failed to convert Germans, the Soviets resorted to other means to bring the zone under Communist control. The parties outside the SED were gradually transformed into mere appendages of the SED, which, itself, was turned into an organization strictly controlled by its own, Communist, top leadership. Under the so-called "bloc" principle the three official parties would always "informally" agree on presenting to the public a unanimous "anti-fascist" front before voting in diets or making any other decisions. "Unanimity" invariably meant that the SED policy had to be accepted by the others. They were corralled into such conformity after purges of their more independent leaders left only compliant stooges in leading positions. At the same time, free organizations in the other fields of public life (trade unions, peasant organizations, youth groups, and others) were brought under SED control. It was "co-ordination" again, only now under new management. Terror, first exercised by the Soviet MVD itself, and now by an indigenous, SED-run "state police" (since 1950 under a Ministry for State Security), keeps everybody in line. It was "Buchenwald revisited" for many an old inmate of that infamous Nazi camp. Totalitarian propaganda tried to control the minds and capture

the allegiance of the masses. Eastern-Germany society emerged as a manipulated society.

#### *Constitution-Making in the East*

Under such conditions formal constitutional provisions obviously mean little. But, as in the Soviet Union proper, Communists everywhere insist on such democratic trimmings for their totalitarian government. Since the SED was in complete control of procedures, it could allow constitution-making in Eastern Germany to proceed in pseudo-democratic fashion. In November 1947 a so-called People's Congress was convened. It was actually a mass meeting of over 2,000 hand-picked delegates, including fellow-travelers from Western Germany so as to present the appearance of nation-wide representation. The Congress selected a "People's Council," whose constitutional committee drafted a constitution which was primarily based on an SED draft published in 1946. In accordance with Soviet policies always to trail the West by one step, formal adoption of the draft by Council and Congress was delayed until the spring of 1949. There then occurred the only "accident" in an otherwise smooth procedure. A new slate of Congress delegates was submitted to the voters of Eastern Germany in May 1949 for "democratic confirmation," but, despite confirmation, a surprisingly high percentage of votes (34 per cent) was cast against the official list. Thereupon it was decided to dispense with further democratic procedures for the final stage. Following "spontaneous" demands for setting up an "all-German" government to counter the Bonn "puppet government," the People's Council simply transformed itself into a "provisional" People's Chamber and proclaimed that the draft constitution was now in force (October 7, 1949). According to constitutional provisions there followed the election, from *Land* diets, of a provisional Chamber of States, the formation of a Cabinet, the election, in joint meeting of the chambers, of a President. To provide for subsequent democratic sanctioning of what had happened, election of a definitive parliament was promised for not later than October 15, 1950.

This promise was never kept. There was, in-

deed, an election on October 15, 1950, but it was not one in the Western sense; it was not even in agreement with the Eastern Constitution's own provisions, which prescribe elections by different parties under the system of proportional representation. Instead the voter was presented with a single list of candidates. They were from different parties, to be sure, but according to pre-election arrangement rather than by popular vote. The SED, as was to be expected, had secured a majority of candidates for itself and its controlled "mass organizations," while Christian Democrats and Liberals together were allotted only 30 per cent. All the voter had to do was to confirm this list; no competing list was admitted. A single-slate election has become the favorite device for transforming "people's democracies," with their still existing multiplicity of parties, into one-party states. It is on the basis of this pseudo-election that the definitive parliament of the Democratic Republic has now been set up.

### **The Structure of Eastern Government**

#### **"SOVEREIGNTY"**

The new Constitution appears to be that of a sovereign, federal, liberal, and democratic state. Actually, it is none of these. Following the Western German pattern, and formally even going further, the Soviets decided in 1949 to give the new Republic the appearance of real sovereignty. It got international autonomy at once, including the right to have a foreign office, to establish diplomatic relations with those countries which recognized it (including the Soviet Union itself), and to conclude international treaties (such as the one with Poland which recognizes as "definite" the boundaries provisionally drawn in 1945). But despite this formal independence, the government of the Democratic Republic remains under broad and vaguely defined supervisory powers of the Soviet Control Commission (into which Soviet Military Administration has been transformed). Actually, Moscow control is now exercised less directly than in the beginning of the occupation, when the Soviets acted chiefly as conquerors, and the German Communists as supplicants. Now, since Moscow needs the SED to control

East Germany, its influence is chiefly exercised through the Politburo of the Communist Party of the Soviet Union, which takes up matters with the Politburo of the SED. Orders and directives are hardly needed here, since the Stalinist Communist complies with the Party line (or else is purged). General policies laid down in Moscow thus prevail almost automatically, as in all satellite countries; in matters of detail or specific "German" questions where no general line has been laid out, the SED leadership may occasionally be able to arrive at a negotiated settlement. This is the system that prevails in Soviet Germany. While somewhat subtler than a simple command-obedience relationship,<sup>6</sup> it yet has resulted in sovietizing all Eastern-German institutions and in the over-all adoption of Soviet policies by the SED.

#### **"FEDERALISM"**

The federalism of the new setup is likewise more apparent than real. The SED draft-constitution of 1946 had favored a unitary state, but when the Soviets, during the four-power negotiations in 1947, came out for a federal system, the SED changed its line and came out for the establishment of *Länder*. Under the present Constitution, the *Länder* are nothing but glorified administrative sub-divisions of central government. The latter has all the legislative power it wants, and it has full discretion in establishing its own central administrations and in tapping sources of revenue. The Chamber of States consists of deputies elected by *Land* assemblies and thus represents parties rather than state interests as such. It has merely a suspensive veto. Since the SED rules regionally as well as centrally, this makes little difference anyway.

#### **"DEMOCRACY" AND BILL OF RIGHTS**

The main "democratic" feature of the Constitution is that all power is ostensibly concentrated in the popularly elected "People's Chamber"; separation of powers, or any independent powers of executive and judiciary, are rejected as "undemocratic." This is the system which

<sup>6</sup> The less subtle type is referred to in a recent joke: A visitor to the Prime Minister, looking around in his office, suddenly asked in astonishment: "What kind of telephone is that on your desk? There is a receiver but no speaker." "Now that you mention it," replied the premier, "that's our direct wire to the Kremlin."

Communists have favored all over postwar Europe (see pp. 266-67 for France) in hopes that Communist control, or at least influence, would then be unhampered in parliament by possibly

simply renders non-SED groups prisoners of the dominant party, which is free to claim the key portfolios. Another constitutional provision is similar to one in the Bonn Constitution: it

## STRUCTURE OF EASTERN GERMAN GOVERNMENT according to the Constitution of 1949

### EXECUTIVE

#### PRESIDENT OF THE REPUBLIC

Elected in joint session of two chambers for 4-year term.  
May be recalled by joint resolution of chambers.  
Promulgates laws, ratifies treaties.  
All acts must be countersigned by Minister-President or a minister.

#### CABINET

##### Minister-President

Presides over cabinet, determines policies on the basis of principles laid down by People's Chamber.  
Selects ministers from deputies in People's Chamber in proportion to strength of parties in chamber.

##### Ministers

Directs departments.  
Are individually responsible to People's Chamber.

### LEGISLATIVE

#### PEOPLE'S CHAMBER

<sup>a</sup> (400 members)

Elected for 4-year term by people of Republic. Elects a Presidium.  
Possesses right of legislation, including constitutional amendments.  
Confirms Minister-President named by strongest party in chamber. May overthrow cabinet, but only if at the same time a new Minister-President is elected.  
Determines budget and economic plan, supervises all state activities.  
Right of self-dissolution.  
With Chamber of States elects President.

#### CHAMBER OF STATES

(50 members)

Members elected by Land diets according to proportional strength of parties in diets.  
May bring legislative proposals before People's Chamber.  
With People's Chamber elects President.

#### CONSTITUTIONAL COMMITTEE OF PEOPLE'S CHAMBER

Established by People's Chamber from deputies, plus 3 members of Supreme Court and 3 law teachers.  
Examines new laws for compatibility with body of constitution.  
Enlarged by 3 members of Chamber of States, examines compatibility of Land laws with central laws, and other constitutional issues between Republic and Länder.

### JUDICIAL

#### SUPREME COURT OF THE REPUBLIC

Reviews decisions of lower courts. Original jurisdiction in important cases.  
Judges nominated by cabinet, elected by People's Chamber, which may also recall them.

#### ATTORNEY-GENERAL OF THE REPUBLIC

Chief of all prosecutors of Republic and Länder. May ask Supreme Court to quash even judgments which have the force of law.  
Nominated by cabinet, elected and recalled by People's Chamber.

"reactionary" Presidents or courts. For the same reason, the East German Constitution has extended the principle of proportional representation to the Cabinet, in which all parties are to be represented according to their strength in parliament. Under conditions of real democracy, this would constitute a novel experiment. Under conditions prevailing in Eastern Germany it

makes the voting of non-confidence dependent on simultaneous election of a new Minister-President. Thus the tendency to strengthen the executive exists on the Left as well as on the Right, despite the former's theoretical emphasis on "government by assembly." As things stand now, with the SED not only ruling politically but also having an absolute majority in the as-



sembly, all these constitutional niceties matter little.

As to "liberalism," the Eastern-German bill of rights resembles the one in the Stalin Constitution of the Soviet Union (p. 462). Emphasis on "socialist" social and economic principles overshadows individual rights and freedoms, which may be limited or suspended, as under the Weimar system, by simple law. Moreover, control over the constitutionality of laws is vested in a committee of parliament, and not in the judiciary. And lastly, as in Western Germany, provision is made for the suppression of parties and associations deemed "undemocratic." The Eastern regime, of course, is likely to interpret this term in the inverse sense.

### ***How Do East and West Compare?***

In their constitution the totalitarian rulers of Eastern Germany thus have a convenient instrument for exercising political control, while their propaganda can use it as a show-piece of "progressive democracy." In Western Germany, on the other hand, while many of the forces and conditions which produced Nazism still exist, there is at least a live and open issue as to what to do about them. And there are other genuine issues, contested and fought over, and elections, votes in parliaments, composition of cabinets,

competition between parties and of wings within parties are still meaningful and relevant. In short, there is active political life; and democracy, while weak and endangered, still has a chance. In Eastern Germany, the radical destruction of groups and forces underlying the Nazi system has simply helped a new totalitarian group to build up its own rule. There, no constitutional issue or procedure is genuine, no elections, votes, debates are relevant any more, and while the air is filled with the manipulated shouting of the "demands of the masses," these masses sullenly realize that all decisions are made *in camera* by a group over which they have no control. And even this top group knows that it is but the handmaiden of the "Big Brother" and his henchmen further East. Germans in the West, to be sure, also know that many basic decisions are not within their control. Yet they fully realize that the Western powers need them, and they have asserted themselves to the utmost. Eastern Germany is a Soviet "satellite," Western Germany a "partner" whose genuine autonomy may yet become uncomfortably clear. In the West the political form of Nazism has been destroyed but its social basis has been preserved; in the East social transformation has been coupled with political enslavement.

## CHAPTER 4

# German Parties and Elections

### I. THE CHARACTER OF THE GERMAN PARTY SYSTEM

#### GENERAL CHARACTERISTICS

The problem of German democracy is intimately connected with the peculiar position which political movements and parties have held in Germany. In the Western democracies, parties embody the actual political forces that carry on government. In Germany, even at times when parties seem to be the major driving force in public life, they appear to the average German as institutions outside, or at best alongside, the "real" state and government. And because this is the way Germans feel about them, they have never become an integral part of the political life of the country. The average German does not like to be identified with a political party to the extent that the American or Englishman does. He may dutifully vote for one at elections, he may even be a dues-paying member; but when asked what party he belongs to, he will more likely than not reply that he is "non-party," or, rather, "above party." At the same time, however (and this is what appears so paradoxical to observers), he will be closely tied to one of the general "philosophies" or "world views" which underlie the programs of the different parties and distinguish them from each other. The German nationalist, democrat, socialist, or liberal is doctrinaire; that is, his thoughts and attitudes are determined by the doctrines, the general philosophy, to which he *and* his party adhere. A British Liberal or Conservative (and even more so an American Republican or Democrat) may have an open mind concerning the question of conservation of resources, or immigration, or world government;

the German's opinion on such problems is prescribed (one might almost say dictated) by what the Catholic, or liberal, or socialist, or nationalist-racist doctrine to which he adheres has to say about the problem. If a German is, say, a Social Democrat, or a Christian Democrat, what he thinks about most problems and policies can easily be guessed. This goes so far that not only newspapers but also publishing houses, or authors, or styles in art, or "schools" of philosophical thought, become identified with "world views" and, frequently, with corresponding parties. When a novel is published by publisher X, this simple fact indicates that its political tendency is leftist rather than rightist, or that it is religious rather than "non-denominational" or atheist. The average German is "above party" in regard to the role he assigns to parties in public life; he is partisan to the extreme in his general attitudes. This explains why what appears to outsiders as minor issues are fought over in Germany as if they were matters of life and death. At the same time, the German is inclined to deprecate and despise "party wrangling" in diets and assemblies.

Contempt for political parties and strong doctrinairism are both rooted in German history. Parties arose in Germany after the state, with its authoritarian government, had long been in existence. In Britain and the United States parties were a part, and an essential part, of the state from the very beginning of modern government; in France they conquered the state. In Prussia-Germany they were imposed, like constitutions and parliaments, upon the pre-existing and stable organization of a bureaucratic-militaristic state. The essential business of state continued to be done without or despite them. Until 1918 the parties were left to bicker among

themselves, exaggerate their doctrinal distinctions, split into sections in the name of the purity of the dogma they claimed to represent. They could safely do so, knowing that stable government was guaranteed by rule from above. When responsibility to govern was suddenly thrust upon them they were inexperienced, divided, unable to co-operate.

Germany's multi-party system thus is not the result of a peculiar election system but of its authoritarian heritage, its lack of religious homogeneity, its regional diversity, and its deferred national unification. Different political movements originated in different parts of what later became Germany: Democratic chiefly in the Southwest, Conservative mostly in the Prussian Northeast, political Catholicism primarily in the Rhine region and Bavaria. Some of them have remained sectional parties ever since. At the same time, classes, and the economic interests they represented, organized themselves as parties; and since they were not integrated into the state until after World War I they too tended to split into ever more groups, often representing petty special interests. If one studies the history of, e.g., liberal parties in Germany prior to 1918, one is struck by the confusing number (and names) of forever changing, splitting, merging, and again disintegrating factions. The ruling powers played off one against the other but never allowed them to become partners in responsible government. The average party remained a combination of "church" and "pressure group." In America pressures work from the outside on parties and their leaders and deputies; in Germany interests like labor or farmers organize themselves *as* political parties and try to conceal their practical character behind an idealistic creed. In this they resemble French parties. But German parties, reflecting their society, are for the most part centralized "machines," run by a self-perpetuating party bureaucracy, with party discipline, and without members at large or voters having much influence over organization and formulation of policies.

While this recalls the British system, there has been in Germany group, rather than individual, leadership. Forceful leaders have been infrequent in German party life. Local "bosses" in the American sense have also been the ex-

ception, all this mainly because of the low esteem in which the "politician" has been held in Germany. Since important positions in public life have been in the hands of a permanent bureaucracy, the politician had little by way of "spoils" to distribute; his own job as a politician, even if he managed to be elected to some assembly, was unimportant before 1918 and continued to be regarded so under Weimar. For diets—then, as today—were considered mere "talking shops." If the politician manages to obtain a really influential position in the executive part of government, he is often considered out-of-place, because he takes the place traditionally reserved to members of the old ruling groups. So was, for example, Ebert, first President of the Weimar Republic, in contrast to Hindenburg, his "non-partisan," in reality nationalist *Junker* successor. All of this accounts for the failure of German party life to attract the forceful, ambitious, or broad-minded, and for the prevalence of the mediocre, elderly, and bureaucratic-minded.

#### COMPARISON WITH OTHER SYSTEMS

Roughly, the German party system compares with the systems of the three main Western democracies as follows: 1. It is a "more-than-one-party" system; that is, in common with the American, British, and French systems it has (except for the Nazi period and present Eastern Germany) been a system of genuine, freely organized, freely functioning and competing parties.

2. It is a "more-than-two" party system; that is, like the French, and unlike the American and the British, the German party system has never produced two major parties that dominated the scene and alternated in government.

3. It is a system without agreement on fundamental issues; that is, again like the French and unlike the American and British, German parties have not agreed on the essentials of a constitution. Fundamental problems of how to organize state and government have remained party issues, and there has been a tendency toward the formation of opposed extremist parties.

4. German parties, unlike those of the United States, and like those of France and Britain, are "representative" in the sense of representing specific social classes, reflecting specific economic

interests, and having definite doctrines; in their insistence on basic dogma they even surpass the British and French parties.

5. German parties are centralized; like the British and unlike the other two they are not grassroot affairs with the center of organization in local or regional units; they are dominated by, and integral parts of, a centralized machine and its bureaucracy.

Thus the German party system is like the French in being multi-party, doctrinaire, founded on economic and social interests, and split on fundamentals; like the British in being based on interests and in being centralized. It is unlike the French in being centralized, unlike the British in being multi-party and in lacking basic constitutional agreements, and unlike the American system in almost everything. It is thus most remote from the American system, and closest to the French. As in France, party rule in Germany necessarily means coalition government; it has run into similar difficulties.<sup>1</sup>

## II. THE RE-ESTABLISHMENT OF A PARTY SYSTEM AFTER 1945

### *Four Licensed Parties*

The Potsdam program for the political reconstruction of Germany included the reorganization of political parties. But how was party life to be revived in a country which for over twelve years had lived under totalitarian rule? Democratic principles seemed to demand giving Germans a free hand to set up their new political organizations. But this involved the risk that Nazis would revive their shattered organizations, and that antifascist groups might take undesirable actions. The Western powers feared

that the so-called "antifa" (antifascist) groups which had sprung up in major cities and were composed of anti-Nazis of different political colors, but with many Communists among them, might come under the control of the latter; so they were dissolved. The Soviets likewise frowned on spontaneous action. They substituted for it a system which subsequently was introduced into the other zones, the licensing of a limited number of parties, by allowing groups to organize themselves only after official permission from MG.

After importing exiled German Communists from Moscow and thus giving the Communist Party (CP) a head start, Soviet MG allowed the Social Democrats to organize themselves in the Eastern zone; then, in order to have parity between "proletarians" and "bourgeois," they licensed two middle class parties, the Christian Democratic Union (CDU) and the Liberal Democratic Party (LDP). This gave them the jump on the Western powers, which wanted the new parties in their zones to grow from the grassroots. But hope for a German grassroots democracy waned. After the suppression of one such movement (the antifas), Germans fell back into the old habit of forming centrally organized parties. When four parties, resembling traditional pre-Nazi parties (Communists on the extreme Left, Social Democrats moderately Leftist, Christian Democrats in the center, and Liberals, moderately Rightist) were officially licensed, surviving Weimar leaders filled the void and organized the new parties on the pattern they had known. The masses, dazed and apathetic, took little interest. They voted dutifully for the new "democratic" parties and followed their leadership docilely.

The story of German party developments after the establishment of the Reich in 1871 was thus repeated. Under Hohenzollern rule parties were denied real participation in public life; under occupation the licensed parties were seemingly controlled by foreign rulers. Since they were advertised as "democratic," democracy itself was discredited by their actual lack of power and responsibility. Many Germans who might have been ready to participate in responsible government held back and became a leadership reser-

<sup>1</sup> The above sharp characterizations are necessarily overdrawn. For instance, as in France, though not to the same degree, German parties differ between those most highly centralized (the Leftist ones) and the less centralized and less bureaucratized middle class parties. Moreover, since after World War II there has been more agreement on constitutional essentials in Western Germany, due to the formation of two moderate major parties, there has been more forceful personal leadership in these parties, and a slight trend toward increased popular participation in party life. These differences and developments are described in the sections following.

voir for antidemocratic groups. Or, like the masses, they fell back into the familiar German habit of rejecting party life as an evil and expecting real achievement from those whom they traditionally thought of as "doers" rather than "talkers"; for instance, from a reorganized bureaucracy.

### Party Strength

In other respects, developments after 1945 recall the early Weimar period. As in all liberated Europe, the trend at first was to the Left. The Nazis and their Rightist collaborators were discredited, more so than even the monarchists had been after 1918. The Communists, their brief defection of 1939-41 (the period of the Stalin-Hitler pact) forgotten, had gained prestige as leaders in the antifascist underground struggle. The German worker was inclined to realize that the Weimar split of the labor movement into Socialists and Communists had been a tragedy, and was ready to back co-operation of all "socialists." But the Soviets squandered this store of good will; their behavior in the Soviet zone and their high-handed treatment of the non-CP parties alienated all but the most loyal Communists. When they forced the Social Democratic leaders into the merger with the Communist Party (see above, p. 659), they destroyed the chance of genuine labor collaboration. In their zone they thus prepared the way for one-party rule. Outside their zone the Communist vote declined rapidly.

The decline of the Communist Party has left Western Germany, in contrast to other Continental countries (such as France, p. 283, and Italy), a country where the moderate (non-Communist) socialists have the backing of the major portion of labor. This, plus the existence of the strong moderate middle class parties, especially the Christian Democrats, at first gave the political map of post-World War II Germany the early Weimar coloring. A combination of moderately Leftist and Centrist parties seemed to augur well for democratic developments. But the picture was somewhat deceptive from the beginning. Since no nondemocratic or antidemocratic parties on the Right were permitted,

voters had no chance but to vote for democratic parties. Some of these, and in particular the middle class parties, served thus as convenient stop-over places for Rightist voters. As in other Western European countries after the war, these parties thus gradually shifted more to the Right. Among both Christian Democrats and Liberals Rightist-conservative, authoritarian, and even neo-Nazi tendencies have made their appearance. Moreover, when the license system was abolished, parties outside the four established ones reappeared, and a proliferation of ultra-nationalist and antidemocratic parties has drawn a growing proportion of voters. These groups are still comparatively small, and disunited. So were, in the early twenties, the various "folkish" groups of which Hitler's was one. Thus danger signs already appear.

Initial strength of the moderate parties was reflected in political co-operation. Early governments in the Western *Länder* were generally coalitions of all four parties. With the developing East-West antagonism, the Communists were the first to go, or be compelled to go. Then an increasing antagonism developed between Socialists and their bourgeois partners. In the new federal government of Western Germany (as already in the preceding bizonal administration) the Christian Democrats emerged as the major government party, and their leadership has since been trying (though not always successfully) to divest the party from Socialist connections in those *Land* governments where the "Great Coalition" still survives.

	1912	1928		1949
		All Ger.	West Ger.	West Ger.
SPD (Social Democratic Party)	34.8	29.8	26.9	29.2
CP (Communist Party)	—	10.6	8.6	5.7
Center <sup>1</sup>	16.4	15.2	23.3	34.1
Liberals <sup>2</sup>	13.6	8.7	8.9	11.9
Democrats <sup>3</sup>	12.3	4.8	4.6	
Conservatives <sup>4</sup>	12.2	14.2	9.5	—
Others	10.7	16.7	18.2	19.1

<sup>1</sup> 1928 including Bavarian People's Party; 1949 CDU, CSU, Center Party.

<sup>2</sup> 1928: German People's Party; 1949: FDP.

<sup>3</sup> 1912: Progressive Party; 1949: FDP.

<sup>4</sup> 1928: German Nationalists.

The table shown above shows party strength in percentages of valid votes for three widely

separated German elections: those of the last Hohenzollern *Reichstag* in 1912; those of the last pre-depression, "normal" *Reichstag* of the Weimar period in 1928; and those of the *Bundestag* under the Bonn Constitution in 1949. Since the Western German vote in 1949 was only in part of what was previous Germany, percentages referring to the vote in the corresponding Western part of Germany in 1928 have been added to the 1928 figures.

Noticeable first of all from these figures is the striking continuity in the strength of major voting groups throughout the three periods, showing how firm the division of German voters into major political blocs has always been. Thus labor, still united in 1912 and since then divided into SPD and CP, has throughout controlled about one-third of the electorate (35 per cent), and political Catholicism between one-sixth and one-fifth (15 to 20 per cent). The higher figures of the present Christian Democrats are due in part to the higher proportion of Catholics in present Western Germany, as appears from a comparison of Center Party figures in 1928 in all of Germany and in the West. Liberalism, as everywhere, has declined since pre-World War I days, but since then has had a steady 12 to 14 per cent of the vote. The remaining one-third has traditionally been on the Right. It is now still partly within such parties as CDU and FDP (Free Democratic Party, the name of the Liberals in Western Germany). Taking this into consideration, the encouraging low percentage of extremists (CP and Rightist groups) in 1949 seems less meaningful. Only the SPD and the new (splinter) Center Party, in programs and actual backing, are clearly democratic. They constitute about one-third of the vote. Even if one adds to this one-half of the CDU and of the FDP vote as genuinely democratic, the total is not more than 50 per cent. It was about the same in 1928. This 50:50 division of the German electorate in "normal" times reflects the German political dilemma, the stalemate between democratic and antidemocratic forces. Victory, traditionally, has been with those who were able to throw into the scale the weight of forces and institutions outside of parliaments and voting.

### III. THE DIFFERENT PARTIES AND THEIR PROGRAMS: A. IN WESTERN GERMANY

#### *The Communist Party*

Communism was strong in Weimar Germany because it appeared to a large segment of the working class as a genuine and independent socialist movement. Communism is weak in present-day Western Germany because it has become apparent that it is a puppet in the hands of a foreign power. Actually German Communists—like all other members of the Comintern—had become subservient to the Moscow party line by the early twenties. But until 1933 this fact was less apparent to the German workers than was the failure of the Social Democrats to achieve socialist aims through democratic-parliamentary processes. Since 1945, however, Communism has become identified with Russia and Soviet policies, and German Communists receive the same fear and hatred as does the Soviet Union. If, other than the Communists proper, there are in Germany today some who favor co-operation with the Soviets and their German henchmen in the Eastern zone, they do so not out of pro-Communist sentiment but because they want to play off the East against the West, or because they are under an illusion that in a combination of Western Germany and the Soviet sphere they, the Western German industrialists or militarists, rather than the rulers of the Soviet Union, would come out on top. But the number of such persons is small.

Postwar German experience with Soviet Communism, which Germans hold responsible for the present split of the country and for conditions in Eastern Germany, accounts for this decline of the CP in Western Germany. The contrast with France and Italy is striking. In France Communists control one-fourth of the vote and are the strongest workers' party. In West Germany they are insignificant in the over-all voting picture and are no longer a serious competitor of the SPD, even for the labor vote. Thus in *Land* Northrhine-Westphalia (which includes the Ruhr, a traditional Communist stronghold in Weimar times), Commu-

nist strength declined from 13.7 per cent of the vote to 7.6 in 1949, and to 5.5 in 1950 *Land* elections. The party has not been able to make up for these losses from expellees or any other group. Communist influence has also declined in works councils and in trade unions, even in those like the miners' where it was strongly entrenched. However, workers who do not vote CP in general elections sometimes endorse Communists in union and factory elections, where Communists often pose as nonparty representatives of labor. It is imaginable that Communism might develop new strength should economic conditions grow worse and large-scale unemployment occur. But barring military or political expansion of the Soviets to the West it seems doomed to relative unimportance, except as a tightly organized "Fifth column" for propaganda and subversion.

Organizationally the Western CP has tried to establish itself as a "Socialist Unity Party," part of the Eastern SED, but it was prevented from operating under this false label by Allied veto. Since 1949 it has been officially separate from the Eastern SED, but its program and structure reflect those of the "Big Brother." It has been beset by "deviationism," with frequent purges and defections of those accused of "Titoism" (actually those who cannot stomach total subservience to Soviet control). It now faces suppression as an "antidemocratic party." While the party as such is still legal,<sup>2</sup> almost all of its affiliated organizations, including the "Free German Youth," and most of its newspapers have been banned. Whether a party driven underground will prove to be less dangerous than a party in the open remains to be seen.

### ***The Social Democratic Party (SPD)***

Since Communism in Germany has never been able to command the adherence of a majority of the working class, the SPD has been, and is, the major representative of that class. Founded at about the same time that the industrial workers class arose in Germany, the SPD never had to win the worker over from allegiance to pre-existing liberal or similar

groups and render him politically "class conscious," a problem with which socialist and labor parties elsewhere have had to struggle. The sustained strength of the party from the time when it had triumphantly emerged from Bismarck's antisocialist fight (see p. 608) to the end of the Weimar period, and from 1945 onward, when it again emerged from illegality, is thus hardly surprising. Its technically unsurpassed organization, the discipline and devotion of its members, its press, youth and women's groups, indoctrination schools, vacation camps, its control of and financial subsidies from the "Free Trade Unions" have for a long time been envied and imitated by other socialist parties. But with all its outward strength, the SPD has had a relatively slight impact on social and political developments in Germany. If one takes into consideration its foremost programmatic aim, the transformation of society from capitalism into socialism, its actual achievement seems rather insignificant. The reason for this is found in the circumstances of its origins and developments.

### **HISTORY**

Under the Empire, when even moderately liberal groups were excluded from government, the SPD's impact on political developments could only be negative, namely, to rally against itself, and against progress, all the conservative-reactionary forces of Germany. Filling the gap in German society and politics which elsewhere was filled by liberal reform parties, the SPD in opposition and exclusion clung to the radicalism of its main founders, Marx and Engels. Yet even prior to World War I, despite lip service to class struggle and other revolutionary principles, the majority of the party had veered toward "revisionism," which held that the aims of socialism could and should be attained gradually and through democratic processes. In 1918, this opportunity seemed to have come. The SPD missed it, not only in the sense of not bringing socialism to Germany (which could not have been done democratically at that time), but even in its more moderate aim of laying the foundations for genuine political democracy. Instead, the party contented itself with economic concessions (like collective bar-

<sup>2</sup> Proceedings to outlaw it were inaugurated before the Constitutional Court late in 1951.



gaining) granted by the middle classes and with the establishment of the formal constitutional framework of Weimar. The existence of a revolutionary Communist movement at its left in part accounts for this failure. Unable to command a united workers' front, the SPD had to find collaborators among "bourgeois" groups. More important, it lacked forceful leaders, like Karl Liebknecht and Rosa Luxemburg on the Communist Left. The joke about the development of Stalinism in Soviet Russia comes to mind here: the "victory of the proletariat" turned into a "victory of the secretariat." Party secretaries, after becoming state officials, behaved true to Prussian tradition. There is the story of an SPD minister in 1919, who, before starting upon his official duties, looked up the existing party resolutions for guidance on government and administration; finding none, he felt free to adopt the Prussian standards. An additional and chief cause for failure was the fact that authoritarian and reactionary forces were still strong. The party felt that it had to forego pressing even mildly progressive policies in order to save the constitutional framework from being overthrown. Such policy of the minor evil rarely achieves significant results.

#### PRESENT ORGANIZATION

Today the party has what it has lacked since the pre-World War I days of August Bebel's leadership: a forceful leader, Kurt Schumacher. Traditionally, the SPD has always been the prototype of the strongly centralized German party, with a party "machine" which managed to control the membership at large. In contrast to the more Rightist, middle class parties, SPD followers are usually actual members of the party, take an active interest in its policies, form "wings" and advocate diverging policies. But the party machine (traditionally consisting of party functionaries, employees of the party "enterprises" like the press, Social Democratic trade union officials, and Social Democratic holders of government positions and posts in the social insurance agencies) has always known how to form a self-perpetuating ruling bloc. The machine has manipulated the elected party organs, such as the annual Party Congresses, through

the devices well known to students of American party organization, and thus the Party Executive has usually been the vantage point from which the party leadership has controlled the party at large. Opposition to this group oligarchy came usually from Leftist wings within the party, but its only effect has, usually, been the creation of some insignificant splinter group, while the majority of the members remained under the control of the party bureaucracy.

Similar "rule from above" prevails today, but it is personal rather than oligarchic leadership. The Party Executive controls the Congresses, but it is in turn controlled by the Party Chairman. Schumacher rules through his magnetic personality, his charisma, his ability to spellbind the masses. While he leaves local and regional party organizations leeway in what he considers relatively minor issues like job patronage, he sees to it that there are no deviations from the general policies which he lays down, and he uses both Party Executive and the parliamentary party for the enforcement of these policies. The German worker, unused to dynamic leadership, has so far followed him with enthusiasm.

#### POLICIES AND CHANCES

Schumacher's principal policy has been to de-emphasize the "class" issue and to emphasize nationalist issues. In the party's Hanover program of 1946 socialization was played down in favor of liberal and democratic principles, and the party has since posed as the champion of German patriotism and German national, even revisionist, aims, accusing its main competitor, the CDU, of being remiss in this respect. The party's suppression in Eastern Germany, one of its former strongholds, while disadvantageous in terms of voting figures, lets it appear as a martyr in the anti-Communist struggle. Its moderate attitude in economic issues and industrial relations has borne fruit in labor's victory in the question of "co-determination" (below, pp. 732-33); whether this will actually increase labor's influence in management remains to be seen. Largely because of Allied prodding, the SPD has divorced itself from its previous close connection with the trade unions. While this

has freed the party from a vested economic interest, it also deprives it of the political backing and financial support of that powerful group. Its nationalism has yielded the party electoral successes, particularly since 1950, when this approach was coupled with opposition to immediate rearmament. On the other hand, German Rightists have usually been more apt than moderates or Leftists to thrive on nationalist agitation; they may in the end deprive the Socialists of the fruits of this kind of propaganda.

Schumacher's policy seems to be to turn the SPD into a German version of the British Labor Party. The question is whether the party will be able to attract nonlabor groups which alone would enable it to implement its program through parliamentary majorities. This seems doubtful, for, despite recent successes in some *Land* elections, it has not made inroads into specific nonlabor groups, such as expellees, and, of course, has nowhere come near to an absolute majority. This, under German conditions, seems to be forlorn hope. It may be that the SPD has always wanted too much and too little at the same time. Too much in hoping to attain socialism through democratic means, for its middle class allies have never been ready to concede this possibility, and the SPD needs allies in order to arrive at decisions democratically. Too little in its belief that the *forms* of democracy are more important for a functioning political democracy than *reforms* of authoritarian institutions and attitudes. It has thus not been able so far to fulfill in Germany the function which seems particularly its own, namely that of a progressive reform party. Whether it will be able to remedy this in the future largely depends on foreign developments. As the only large German party with genuinely democratic following and the only socialist party on the Continent which has the allegiance of the workers without significant CP competition, its role would seem crucial in the battle for a non-totalitarian Europe. But, like other "middle" groups and "third force" movements in the world today, it is in danger of being crushed between the Communist hammer-and-sickle and the anvil of Rightist reaction.

### **Christian Democratic (Christian Social) Union (CDU-CSU)**

#### **PREDECESSORS**

For the first time in the history of German parties there emerged in 1945 a dominant non-socialist party, which today is still the largest of the political parties in Western Germany: the Christian Democratic Union, in Bavaria called the Christian Social Union (CDU, CSU). There always had been in Germany three or four main nonsocialist parties. The Conservatives (during Weimar called German Nationalists) represented the old, particularly Prussian ruling classes, the *Junkers* and their agrarian interests, the upper officialdom, the army, the established Protestant churches, and parts of the professional and industrial middle class. Its program was authoritarian-monarchist, nationalistic, and anti-Semitic. Next to it were the Liberals, usually split into a more Rightist group (the National Liberals of the Hohenzollern era, later called the German People's Party), representing mainly big business, and the more Leftist Progressives (under Weimar the German Democratic Party), pledged to political democracy and chiefly representing lower middle class elements. In addition there was the Center Party, founded to defend the interests of the Catholic minority in the predominantly Protestant Reich of 1871, the only German party whose following cut through class lines, rallying to its banner Catholic workers as well as members of the upper and lower middle classes. Its program and policies, reflecting this merger of different social groups and economic interests in a common religious bond, insisted on religious freedoms and privileges while being opportunistic in regard to form of government and trying to combine valuable features of a free as well as a regulated economy.

#### **PRESENT WINGS AND ORGANIZATION**

The CDU is the successor to at least portions of all of these groups, most significantly to the old Center Party. Following World War II, large parts of the nonsocialist populations of Europe, liberated from or disillusioned with totalitarianism and unwilling to join Rightist

parties discredited by collaboration with fascism, favored a progressive movement based on Christian principles, some people because they genuinely embraced antitotalitarian and democratic ideals, others because this seemed to be the only effective way to stem a more radical socialist flood. Hence the MRP in France (p. 288), the Italian Christian Democrats, and the German CDU. In contrast to its brother-parties in France and Italy, the German CDU includes both Catholics and Protestants on a common Christian basis.

Since their inception, these Christian Democratic parties in Europe have developed in two ways. The rise of a strong competitor on the Right has caused the Christian Democrats to become one of the "middle groups" (as in France). Or, as in Italy, they have themselves become an out-and-out antisocialist, "vested-interest" party of the Right. For the German CDU both possibilities still exist. In policies as well as organization it is beset with contradictions. While it embraces states-rights principles and itself is rather loosely organized in a federation of regional parties, it actually is under the leadership of one man, Konrad Adenauer, who as present Federal Chancellor rules Western Germany in a strongly centralized manner. While its program speaks out against "free enterprise" in favor of social reform, as a government party it has been pledged to an unhampered "market economy."

The CDU was the last among the major parties to organize itself on an interzonal level (Goslar Party Congress, 1950), and the Christian Social Union in Bavaria still remains organizationally separate. This latter group is the successor to a Bavarian Catholic party which during Weimar had split away from the Center, being more agrarian-conservative and states-rights-minded than the mother party. Representing the "native" Bavarian peasant and middle classes, the CSU is under extremely conservative-clerical leadership. It is increasingly threatened by an even more "particularist" group (the Bavarian Party, see below), as well as by groups representing the refugee vote. At the other end of the CDU spectrum was, after 1945, the CDU of the Soviet zone, mildly socialist and strongly centralistic. After its "co-

ordination" with SED policies, its independent leaders fled the zone and now represent in the West an Eastern "CDU in exile."

The CDU, like other middle class parties in Germany, is distinguished from the SPD (and the CP) in that its mass following are not usually members who take an active part in party affairs. In the SPD the main internal problem is the contest between the membership at large and party bureaucracy; in parties such as the CDU, a party bureaucracy, joined by numerically small groups of professionals, academicians, and other lay members, is free to run party affairs. Their major problem is to keep the backing of the voters. The Leftist parties can rely on their members' trooping to the polling places, but between elections, they have the problem of intraparty discipline which the CDU and other more Rightist parties seldom face. There, a relatively small group of politicians is in control of party affairs but faces the problem of maintaining the allegiance of the different social groups on whose backing they depend at election time.

#### POLICIES AND CHANCES

Despite the diversity of the groups which back it, CDU chairman Konrad Adenauer has so far managed to control the party and lay down uniform policies for it. The present Federal Chancellor, a Catholic and a former Center Party leader, strongly antitotalitarian but also strongly authoritarian, represents the conservative wing of the party, and his rule reflects the victory of this wing over those to the Left. These latter are chiefly composed of the workers' wing of political Catholicism and its trade union arm, the former Christian Trade Unions (now in the over-all trade union organization of Western Germany). Its stronghold is in the Ruhr, and its leader, Karl Arnold, is the only forceful competitor to Adenauer in the party. The so-called Ahlen platform of the British-zone CDU of 1947 advocated nationalization of coal and steel, participation of workers in the management of private industry, and dissolution of cartels and monopolies. The actual policies of the party, most energetically promoted by Economics Minister Ludwig Erhard, are for protection of private property and favor free

enterprise and free trade. These policies enjoy the backing of major portions of Ruhr industry, the civil service (the federal civil service has been established largely on the basis of Adenauer's patronage), and parts of the peasantry and the lower middle class. Some more progressive elements, dismayed with the conservatism of the party line as well as with the party's Protestant admixture, have established a new Center Party. This group, almost undistinguishable from the SPD in its economic program but distinguished from it by its religious and educational program, and also by its anticentralism, is mainly found in the Rhine-Westphalia area, where it deprived the CDU of about one-fourth of its vote in 1949. However, it has now branched out into South-German *Länder* also.

While its economic conservatism thus threatens the CDU with the dissension of its Left, its strongly Catholic character entails a threat of defection by Protestants. The partition of Germany has favored Catholicism in the West because most German Catholics live there. Catholic control of the CDU is driving many of the party's surprisingly numerous Protestant followers into other nonsocialist parties. There are additional reasons which make it doubtful whether, in the long run, the party will be able to retain its large middle class following. With the organization of new Rightist parties, many former German Nationalists (and former Nazis) who joined the CDU as a halfway house have already begun to move toward the Right again. But the old Center Party could always rely on at least half of the voting power of Catholics (most "nominal" Catholics, particularly among workers, voting SPD or CP), and since women voted Center in the relation of 6 women to 4 men, the CDU is further favored by the present German sex distribution. Even with Protestant, Rightist, and Leftist defections it is likely to maintain about 25 per cent of the Western vote. Whether or not it will remain, or become, a force for German democracy depends on whether its leadership will try to make up for losses to the Right by increased nationalism and reactionism of its own, or whether it will write off the Rightist defectors and concentrate on its moderate and more democratic backing by Center and Left.

## Free Democratic Party (FDP)

### PROGRAM

The FDP, which emerged as the third largest party at the 1949 elections (12 per cent of the vote), is somewhat difficult to characterize. Judging from its program and, in part, its leadership, it seems to be the successor to both previous liberal parties. It is economically conservative, "free enterprise," without even the slightest concessions to socialism or state planning. In cultural and certain political-constitutional questions, however, it shares the views of the SPD. It stands for separation of state and church, and opposes clericalism and denominational schools in favor of interdenominational education; it is strongly centralistic in the interest of national unity, and supports the new constitutional framework. In its combination of economic conservatism and cultural-political progressivism it resembles the traditional French Radical Socialists (see pp. 290-91).

### POLICIES

In its backing, however, the party appears less clear-cut and homogeneous. Organizationally, it is true, the FDP now unifies the host of liberal parties of various zones and *Länder* which merged in 1948 (breaking first with the Soviet zone Liberal Democratic Party, which has developed into a dependency of the SED). But its strength derives from very different strata in different regions. Its "official" predecessors (National Liberals and Progressives) represented big business on the one hand, and smaller trade and more enlightened burghers on the other. The latter group still backs the FDP in regions such as Southwest Germany, the traditional stronghold of liberal democracy in Germany. In other regions the party represents big business. But it can hardly be said that big business as a group is behind it; it equally favors the CDU, which enables it to work through both at some times and to oppose unfavorable trends in the CDU with the help of the FDP at other times.

### CHANCES

In addition, FDP ranks are increasingly swelled by nationalists, who may be former

German Nationalists (including, since 1951, professional military men) or former Nazis. This following is largest in regions like Hesse, where the party is "right" of the CDU (while in Württemberg, for example, it is left of the latter). Its anticlericalism has gained it some Protestant protest votes against the CDU in the more Catholic regions. It is stronger in urban centers than in the countryside. It thus faces two ways, as German liberalism has done so often: In the person of its chairman, Theodor Heuss, it has presented the new republic with a genuinely democratic presidential figurehead; but its future trends can be surmised from the fact that its voting strength has no more than remained stable where it is more progressive, while it has increased where it is ultra-nationalist. Thus in Hesse it jumped from 8 per cent in 1946 to 28 in 1949. At the 1951 party congress, the moderate wing barely prevailed over a radical-nationalist opposition. Like the non-Catholic portion of the CDU, a large proportion of the FDP voters may be only transient guests in the course of their journey farther to the Right.

### *Other Parties and Groups*

Since political parties have been free to organize without licensing, a host of minor parties have sprung up in Western Germany, proving not only that traditional German sectionalism is not dead but also that important portions of the electorate had not found permanent homes in the four parties mentioned so far. These minor parties, together, polled close to 20 per cent in 1949; and one of them is a partner in the present federal government coalition. In the 1950 regional elections in Schleswig-Holstein they polled over 40 per cent of the total. This shows that the present German party system is by no means stabilized.

These minor parties represent three main population groups (in addition to the new Center Party, mentioned above): Rightist nationalists and neo-Nazis, ardent regionalists (particularists) and refugees (expellees).

#### THE BAVARIAN PARTY (BP)

This party, with its slogan "Bavaria for the Bavarians," represents the extreme particularism of the Bavarian peasant and small burgher

who consider "foreigner" anybody not born Bavarian. They resent not only refugees but also bombed-out "Prussians." (The term "Prussian," denoting any non-Bavarian, is usually endowed with an unprintable prefix.) They favor the restoration of the Bavarian Wittelsbach dynasty, oppose the Bonn Constitution as over-centralistic, and advocate Bavarian "independence" in a loose German confederation. While not very significant nationally, this party has been able to attract a large bloc of voters in Bavaria proper (1949: 20 per cent). It is clerical and economically ultra-conservative; extreme Rightist, antidemocratic tendencies have also become noticeable in the Bavarian Party.

#### GERMAN PARTY (DP)

This party emerged as a kind of Northern and Protestant counterpart to the Bavarian Party. It originated from a particularist movement in Hanover, backed by those Hanoverians who remained anti-Prussian after the annexation of their kingdom by Prussia in 1866. Insignificant prior to 1945, this group, after the demise of Prussia, attracted the vote of the Lower Saxon peasant anxious to maintain his status and property against interference from federal government as well as against land reform in favor of expellees. Success in Lower Saxony encouraged its leaders to branch out into other regions, where the party has attracted votes of wealthy farmers as well as other antisocialist middle class elements. With its emphasis on the traditional civil service, its hostility to denazification, and, despite its stress on states' rights, its general nationalist-reactionary attitude, the party now competes with the CDU and the FDP for the Rightist middle class vote everywhere in Protestant regions. With seventeen deputies in the Bonn diet, it is a junior partner in the present government coalition. As in the case of the FDP and the Protestant wing of the CDU, however, it seems doubtful whether the DP will be able to command continued allegiance of its Rightist voters in competition with even more outspoken Rightist-nationalist parties.

#### ULTRA-RIGHTIST PARTIES

Radically Rightist opinion of the antidemocratic and Nazi sort was not allowed to express

itself immediately after 1945; it was probably not widespread at that time anyway. Since then, in addition to the emergence of Rightist tendencies in parties such as CDU and FDP, many Rightist groups have tried to organize themselves into full-fledged political parties and to attract the far-spread but still homeless ultra-nationalist and neo-Nazi vote. At first personal jealousy among competing leaders and programmatic differences kept them apart, and there was a bewildering variety of splitting, merging, reorganizing groups. All were alike, however, in their violent opposition to Bonn and the "established" parties, to parliamentarism and "formal" democracy, in their anti-Semitism (of the "a pity not all Jews were gassed" variety), and in their defense of Nazism.

In 1951 one group, calling itself the "Socialist Reich Party," emerged as the most significant. In that year's regional election in *Land* Lower Saxony, it polled 11 per cent of the vote and all but destroyed its Rightist competitors. Among its leaders are such persons as the Nazi officer who was chiefly responsible for defeating the anti-Hitler plot of July 1944 and who now makes propaganda capital out of his "last-ditch loyalty to the Führer," a former editor of the main Nazi newspaper, the *Voelkische Beobachter*, and a "denazified" former Nazi *Gauleiter*. This party, almost unashamedly and openly neo-Nazi, has revived Nazi symbols and organizations, including a kind of brown-shirted and booted neo-SA. Its leadership began stressing "legality" and respectability and playing down radicalism, just as the Nazis did in the middle twenties, when the Bonn government started considering its suppression as an "anti-democratic" group late in 1951.

The fact that parties like the Socialist Reich Party exist again in Germany is perhaps less surprising than the fact that "denazification" has not prevented even the most rabid former Nazis from taking part in public life, politics, and propaganda. This not only reflects the failure of "denazification" proper but also endangers democratic reorientation, which, in a country like Germany, should not, at this early point, have to face the poisonous competition of Nazi propaganda. While the future chances of these groups depend to a large measure upon

economic developments in Germany, their emergence in some strength may now already have the effect of driving the middle class parties ever further to the Right in order to meet their competition. As under Weimar, this would leave democrats and moderate Leftists in a precarious and defensive position again.

#### REFUGEE GROUPS

Until 1950 the refugee vote was scattered among various established parties, especially those which to some extent took notice of the plight of the expellee and of his demands (thus SPD and, partly, CDU, but not CSU, DP, or Bavarian Party). Among these was a Bavarian group, the Economic Reconstruction Party (WAV), which, under the somewhat cranky leadership of one Alfred Loritz, voiced general middle class resentment and opposition to existing conditions and thus became the "voice of the have-nots," including the refugees. MG did not license refugee parties because it wanted to integrate refugees into the general party system. This policy failed, as did attempts to integrate refugees economically into German society. For while in the 1949 elections most refugees still voted for established parties or radical Rightist groups, since then they have organized their own parties, such as the "Union of the Homeless and Victims of Injustice" (BHE), whose name already indicates its resentment and its program. This group has scored heavily in regional elections. It got 23.4 per cent of the vote in Schleswig-Holstein, a *Land* whose population is one-third refugee. In Bavaria, it gained over 12 per cent of the vote and all but wiped out the WAV. Since 1951 there has been a slight decline. While in 1950 refugee parties were backed by three-fourths of the refugee population, in 1951 the BHE was backed by only slightly over half of this group where elections were held in that year. It may be that refugee parties will share the usual fate of "special interest" parties in Germany, namely, to lose out in favor of more "general," and usually extremist parties ready to exploit the frustrations and the emotionalism of the group concerned. At present, the political philosophy of the refugees, the new German "fifth estate," is still undefined. They agree on irredentism, the demand for the return of, or their return to,

their former homelands, and, pending this, a demand for temporary satisfaction of their claims and interests in rump-Germany; but beyond this everything is vague.

#### NONPARTY ASSOCIATIONS OF POLITICAL CHARACTER

Political associations of a nonparty nature have commonly been a kind of party-substitute for Germans who wanted to be "above" the "ever-wrangling interest parties." They have been expressive of the German's desire to merge his identity in a larger whole, to be romantically one with a group. In their opposition to "politics" such groupings have often been more influential in German political life than parties proper. The Nazi Party grew out of the folkish "fighting associations" of post-World War I times. Similar groups must be watched now, particularly in their influence over the young, for which existing parties have proved to be singularly unattractive. Many of them are still under-cover or esoteric, trying to unite only a like-minded few as an elite for future large-scale action. Among them is the *Bruderschaft* (Brotherhood), an association of former army officers in which high Nazis (one of them formerly on Himmler's staff) function as leaders. There is also a crop of veterans' organizations, now with one roof organization; they are run by former officers, nurse a spirit of militarism and revenge, and have already come out into the open with political demands and declarations, such as "conditions" for Germany's participation in Western defense. While it would be too early to talk about a revival of Nazi organizations, such groupings might well lead to organized neo-Nazism.

It is perhaps truer for Germany than for other countries that activist groups are often more important than large parties in decisive political situations. There is then a danger that such groups, closely knit, effectively organized, and in possession of a goal or "myth," simply overrun the "normal" parties and their institutions. So it was with Nazism in the crisis of the early thirties, and so it may become again if the parties which at present are in seemingly safe control fail to satisfy the basic economic and psychological wants of the German people.

## THE DIFFERENT PARTIES AND THEIR PROGRAMS: B. IN EASTERN GERMANY

### *Stooges and Dummies*

In addition to the ruling organization of Communism in Eastern Germany (the Socialist Unity Party, SED) there are still a number of parties whose existence might mislead the uninformed observer into assuming that the "Democratic Republic" is a multi-party state. In reality all of them are subservient to the SED and serve only to give the impression that the system is democratic and to "co-ordinate" groups and classes that otherwise might not so easily be controlled. It has been shown before how the Eastern CDU and LDP, the two remaining political parties after the "merger" of the Communists and the Social Democrats, were brought under the control of the SED through the "bloc policy," purges of their more independent leaders, and the system of terror, threat, and intimidation subsequently established in the zone. Present leaders of these "parties," whether they are party functionaries, diet deputies, members of governments, or high officials, are helpless stooges of the ruling group, whom they often try to excel in "people's democratic" zeal in order to maintain jobs and health.

But in order even more to undermine the hold of these two "older" parties, the Communist leadership deliberately established a number of competing organizations: so-called "mass organizations" (the peasants' "Mutual Aid Associations," the workers' "Free Trade Unions," the "Free German Youth," and others) and new "political parties" of the Eastern kind, the "Farmers Party" and the "National Democratic Party" (NDP). The latter group was actually established by *fiat* of the SED in order to attract former Nazis.

### *The Socialist Unity Party (SED)*

#### DEVELOPMENT AND ORGANIZATION

Communism in Eastern Germany is organized as "Socialist Unity Party," the outgrowth of the enforced merger in 1946 of the original



Communists and Socialists. The SED at first was actually based on the principle of parity in leadership between Communists and former Social Democrats, and it tried to have as broad a mass basis as possible. Membership was acquired easily; in fact, it was open to anybody, including former Nazis willing to forswear their past. Very soon, however, it appeared that the SED was unable to attract the rank and file of Social Democrats. In municipal and regional elections of 1946 former "red" strongholds, industrial centers like the big Saxonian cities, voted middle class, while some rural areas, traditionally conservative, voted "red" (partly because CDU and LDP had not become fully organized there yet and partly as result of the land reform). Subsequently the SED dropped "parity" and has by now transformed itself into an organization in which all key positions are held by trusted Communists and the line of authority goes from top to bottom. Simultaneously, membership has been reduced. Following the big purge of 1951, membership was officially reported to have dropped from close to 2 million to 1.2 million.<sup>8</sup>

The SED statute of July 1950 defines the Party as a "fighting organization" based on the principles of Marx, Engels, Lenin, and Stalin. As in the Soviet Union, it is an exclusive order, or "cadre," with members carefully selected for unquestioning loyalty and discipline. Elected party organs are unimportant. The Party Congress meets only every two years. Decisive are the Central Committee (officially elected by the Congress), its Politburo, its Secretariat, and its Control Commission, which purges disloyal members. Politburo and Secretary-General are all-powerful. Present (1951) Party Secretary, Walter Ulbricht, is an old "Moscow" Communist, that is, a German Communist who went to Moscow rather than to a Western country during Nazism. "Western" Communists are distrusted and removed from posts of influence. Ulbricht's sole potential competitor is Politburo-member Wilhelm Zaisser, head of the Ministry of State Security and of the secret police and,

as such, immediately under the directives of the Soviet MVD (Interior Ministry) (pp. 448-49).

#### PROGRAM AND POLICIES

The SED controls all important Eastern organizations ("mass organizations") through occupancy of key positions. It rules the state. The new Party statute even provides that "the Central Committee determines who represents the Party in the highest organs of the state," no matter what the constitution of the Democratic Republic says in this respect! Its program echoes the official Moscow line, from peace propaganda and anti-imperialism to anti-"cosmopolitanism" in science, anti-"objectivism" in culture, and anti-"formalism" in art. Its specific German program is based on the Soviet line of appealing to German nationalism and desire for unity. Its propaganda in this respect has been directed toward the formation of a broad "National Front," into which everybody in the East, including the surviving shadow parties, are forced, but which outside of the Eastern "zone of silence" has attracted few adherents. Its propaganda thunder against Western Germany's "enslavement to the West" is hampered by the fact that the Eastern regime itself had to recognize the present Eastern German boundary as definitive. Its propaganda against reactionism in the West (failure of denazification, of land reform, and so forth) is largely ineffective because of the totalitarian structure of its own government and society.

#### IV. ELECTIONS

The German parties, including the radically antidemocratic ones as long as they were in opposition, have always used democratic elections as the principal means to make their influence felt. But while in countries like Britain and the United States an election is chiefly a means to bring about a functioning "Administration" (in the American sense of the word), in Germany it is frequently considered an end in itself, namely, to reveal the comparative strength of the different political groups in the country. "Fair reflection of popular attitudes" was considered more

<sup>8</sup> At that time, rumor had it that the Security Ministry would no longer publish lists of purged officials. Instead, the names of those *not* purged were to be printed. Reason: to conserve paper.

important than whether the ensuing multi-party system lent itself to the formation of stable government. This accounts for the widespread attachment of Germans to proportional representation (PR). Under the Hohenzollern regime, *Reichstag* elections had been majority elections in single-member districts, with "run-off" elections in case the first vote failed to give one candidate an absolute majority. This system worked against the Socialists, since in run-off elections they usually were isolated against a candidate of an antisocialist coalition. They were further victimized through lack of redistricting, which favored the rural areas (Conservative strongholds) when the population shifted to urban centers. For these reasons PR came to be considered a progressive principle, and the Social Democrats, its main protagonists, introduced it into the Weimar system.

### Present Election Systems. A. In Western Germany

It has been mentioned before (p. 615) that PR, in part unjustly, has been blamed for many of the weaknesses of Weimar parliamentarism. With the revival of democratic procedures after 1945 much German discussion has again centered around the election system. Although PR was used in local and regional elections of most zones after 1945, belief that the single-member district would remedy some of the evils incident to PR led to the adoption of a mixed system for the election of the *Bundestag* in 1949. This system tried to combine the advantages of PR (just representation of the various opinion groups) with those of the single-member system (a more personal relation between voters and candidates and lessened party domination of elections) by having three-fifths of the deputies elected from single member districts by simple majority, and two-fifths from lists set up by the parties. The lists were to make up for any losses a party would incur by not electing in districts as many deputies as would correspond to its over-all strength in voting figures. Seats gained in districts *beyond* the proportional strength of the party in question would not, however, be lost, and parties obtaining less than 5 per cent of the vote in any *Land*, unless they obtained at

least one seat in a district, were to be disregarded.<sup>4</sup>

Comparison between the actual result of the election and the distribution of seats which would have obtained under straight PR<sup>5</sup> shows that the difference was not very great. Large parties, like SPD and CDU, and those with regionally concentrated backing (Bavarian Party, German Party) to some extent gained under the system, while smaller groups whose following was scattered, such as Communists and Rightist groups, were losers. Thus, the advantage of PR, proportionality in representation, was to a large extent maintained. But the advantages of the single-member system were not so much in evidence. Even in the district cam-

<sup>4</sup> How the system worked in practice may be illustrated by figures from the election results in Bavaria. According to the election law, 78 deputies were to be elected in Bavaria, in the approximate relation of 60:40 in direct election in districts and from over-all *Land* lists. This meant that 47 were to be elected in districts, and 31 from lists. The election result was the following:

		Per Cent
CSU	1,380	29.2
SPD	1,075	22.8
BP	0,987	20.9
WAV	0,682	14.4
FDP	0,404	8.5
CP	0,196	4.1
Valid votes cast (in millions)	4,728	

In the 47 districts the CSU elected 24, the SPD 12, and the BP 11. The 31 "list" deputies were thus to be allocated to the different parties on the basis of their percentage share in the over-all result (not counting the CP votes, since the CP had obtained less than the minimum 5 per cent of the over-all vote). This meant that the CSU did not get additional deputies, since its 24 district deputies constituted already all it could claim percentage-wise. The SPD got an additional 6 deputies, the BP likewise an additional 6, and FDP and WAV, which both had not gained a majority in any single district, elected from their lists 7 and 12 respectively. Thus, the total result was CSU 24, SPD 18, BP 17, WAV 12, and FDP 7, approximately proportional to their over-all strength in the election.

<sup>5</sup> A comparison between actual seat distribution and the distribution which would have resulted from PR, in the *Bundestag* election, August 14, 1949, is as follows:

Party	Seats Received	Seats Under PR
CDU/CSU	139	125
SPD	131	117
FDP	52	48
CP	15	23
DP	17	16
BP	17	17
Center	10	12
WAV	12	12
Rightists	5	7
Others	4	25
Total	402	402

paigns and elections the personality of the individual candidate vanished behind the party label, and the composition of the assembly (see below, p. 685) shows that the control of the party bureaucracy was still strong. A list system gives the party bureaucracy a chance to put party hacks in safe places on the ballot, and under the new mixed system 40 per cent of the deputies were entirely creatures of party lists, not owing their election to any vote in a district at all. This, of course, worked in favor of the party machines.

The mixed system for the first federal election had been adopted by the Parliamentary Council for that election only. Since the Bonn Constitution, in contrast to Weimar, is silent on the question, the problem of the electoral system threatens to become a football of party politics, as it has become already in a number of *Länder*. Decision today depends even less on principle than it did when parties to some extent stood for certain systems as a matter of principle, for instance, Progressives and SPD for PR, more Rightist ones for the single member system. The parties tend to calculate in purely opportunistic fashion under which system they fare best, and take their stand accordingly. As in France, the issue is another source of discord.

### **Present Election Systems. B. In Eastern Germany**

No such discord exists in Eastern Germany. There parliament, in October 1950, was elected from one list only, on which different parties and groups of the "National Front," according to prior agreement, enjoyed fixed percentages of the total number of nominees. Unburdened with the trouble of making a choice, the voters endorsed this ticket "enthusiastically," openly, and all but unanimously (election participation 98.44 per cent, *pro*: 99.7 per cent of the valid vote). This result put even similar Nazi "elections" and "plebiscites" into the shadow.<sup>6</sup>

### **Campaigns and Procedures**

Elections in Germany are usually efficient, but there is seldom any active participation of party

members or of voters prior to voting proper. Women voted for the first time in 1919, when the voting age was set at 20. Women's suffrage, in Germany, has generally strengthened Catholic and conservative parties and weakened the parties of the Left, in particular the Communists (in contrast to the situation in France, see p. 311).<sup>7</sup> Low voting age in times of crisis has favored extremist groups, particularly the Nazis. Participation in elections has been generally high, usually between 75 and 80 per cent. The result has not always been to strengthen democracy, since participation has been greatest whenever extremist, antidemocratic parties succeeded in mobilizing the habitual nonvoter. High voting participation is facilitated by the absence of complicating procedures. No special registration is required, municipal authorities keep permanent lists of those entitled to vote, and a "traveler's ballot," procured beforehand, may be dropped at any convenient polling place. There are no literary or educational tests, no property or similar qualifications, and even residence requirements are scant. Elections usually take place on Sundays, with ample time for anybody to vote.

On the other hand, casting his ballot is about the only thing a German voter is able or cares to do. He has very little influence on the selection of candidates. Primary elections are unknown, and nominations are usually cut and dried affairs practically in the hands of local and, more frequently, regional or central party committees. Frequently candidates are from outside the respective district, as in Britain, and with similar advantages (see p. 62). On the other hand, the influence of the central party machine on nominations means that party loyalty and political "reliability" count most, while personal ability and intrinsic knowledge are more easily dispensed with, according to the principle "Better a seat without a brain than a brain without a seat." Outstanding personalities are singularly rare among candidates, and the person of the candidate plays a small role in the campaign. What really counts is his party label, and the campaign is fought over national, general, and often abstract, doctrinaire issues. Even

<sup>6</sup> According to a current jest, a thief recently broke into the propaganda office of the Eastern government, making off with the results of next year's election.

<sup>7</sup> In 1924 in Germany, for example, women outvoted men 3 to 2 for Center and 5.5 to 4.5 for Nationalist, while the men outvoted the women 3 to 2 for CP.

in local elections, national party programs and policies usually count more than specific local issues. There is little house-to-house canvassing, but radio, press, handbills, public meetings, and posters, affixed to the famous German *Litfass-Säulen* (round column "billboards" at street corners and similar places, used for public announcements and advertising) are employed to attract the voter's attention. No pictures of baby-kissing candidates lure the voter, however; it is rather the party slogan, party emblem, or party color that dominates campaign propaganda.

Germany knows little official regulation of electoral morals. There are no statutory limits for campaign expenditures, and only flagrant acts, such as outright buying of votes, are criminal offenses. On the other hand, open or undercover corruption, as far as the individual candidate is concerned, is less widespread in Germany than in France or America. Pressure groups and interests work on or through the party as a whole rather than on individual candidates or deputies. Whatever outright bribery occurs reveals, often in an amusing way, the effect of German pedantry. Thus, in 1950, an investigating committee of the *Bundestag* found that one industrial group had staggered its handouts strictly according to three categories of deputies: 20,000 DM (*Deutsche Marks*) each for those in a position to make real decisions; 10,000 for those "who had something to say" on it, and a puny 1,000 for those who merely voted!

## V. EFFECTIVENESS OF THE GERMAN PARTY SYSTEM

The questions asked concerning the effectiveness of the British and French party systems (pp. 68, 140, 308) can be answered, for Germany, much the same way as they were answered for France. While German parties faithfully reflect even minute differences in the attitudes and wishes of the electorate, the resulting multi-party system neither guarantees that actual governments are representative of the desires of a majority nor does it make for stability and effectiveness of party coalitions in government. The use of compromise and the peaceful settlement of controversial issues are effected

only with difficulty in Germany, with its doctrinaire parties and leaders. But while in France differentiation and disagreement make for unstable government, in Germany, with its stable and able executive establishment, such disagreement rather had the effect of making parties ineffective and of letting executive government function outside the party orbit. Rule of a party bureaucracy over the party as such, and the ensuing lack of members' or voters' influence over party policies and party management, has further contributed to the traditionally low prestige of parties in popular opinion. Experience with Nazi propaganda has caused many Germans to feel that politics, political promises, and avowed political ideals are mere decoys of self-perpetuating and self-centered groups, and that there is no practical way to get the parties to reflect the interests and the ideals of the people.

Developments since the end of World War II have partly confirmed and partly attenuated these attitudes and trends. On the one hand, the parties, re-established under the auspices of the occupying powers, have for several years labored under the disadvantage of having real issues placed outside their jurisdiction and influence (see above, pp. 652, 666). On the other hand, there have been in Western Germany, since 1949, some definite tendencies in another direction. The emergence of the Christian Democrats and the Social Democrats as "the" two major parties for the first time gives German politics some of the character of a two-party system. It is not yet, to be sure, a genuine two-party system, since neither of the two major parties has a majority, or even much of a chance of getting one; thus coalition government is still required, and the recent trend toward the formation of stronger Rightist parties even threatens the CDU's status as one of these major parties. Germans have come to think a little more in terms of political "alternatives," "Ins" and "Outs," "Government party" and "opposition party," instead of thinking always in terms of doctrines, issues, complete "victories" and "defeats" of one or another political creed and movement. To this may be added a trend toward more moderation, compromise, "getting-along," a trend which has been strengthened by the tacit agreement of the major groups to oper-

ate within, and to adopt, the framework of the present constitution. Emergence of two forceful leaders in the two main parties, moreover, has worked to the detriment of traditional party bureaucracies. Some Germans have thus become encouraged to take parties and party policies more seriously than before and to realize that

"democracy" requires that people take the initiative and do something about making parties and public life more expressive of popular desires and tendencies. These beginnings, tenuous as they still are, may bode well for the future, provided a new turn (or return) to extremism can be avoided.

## CHAPTER 5

# German Parliamentary Institutions

The meeting-place of a representative assembly may be an index to its national importance. While Britain has the magnificent neo-Gothic structure of Westminster Palace, just resurrected from World War II ruins in the old image, while France has its classic Palais Bourbon in the very heart of Paris, the German assembly presently deserving the name of parliament is housed in makeshift fashion in a sober, modernistic, office-building type of structure at Bonn. No traditions surround it. The pompous *Reichstag* building in Berlin, more façade than substance like the diet it housed, still stands as a burned-out symbol of Nazi incendiarism. Popular sovereignty in Germany is still in search of substantiation.

### I. DEVELOPMENT AND CHARACTER OF GERMAN PARLIAMENTARY INSTITUTIONS

#### General Characteristics

The place of parliamentary institutions in German government is difficult to define. They have never had the actual power and the political prestige of parliaments in the Western countries in modern times. But neither have they been (except during totalitarian regimes) the make-believe pseudo-representative institutions so often found in Latin-American or Near-Eastern countries. They rather have expressed the middle condition of a desire for genuine representative government continually thwarted by authoritarian and antidemocratic traditions.

The fact that the executive, in Germany, from the beginning of parliamentary institutions, was

faced with a multiplicity of parties none of which ever had a majority, of course had something to do with the political weakness of Parliament. A two-party system might imaginably have developed sufficient strength to bring the executive under parliamentary control. But, as Bismarck pointed out in an address before the *Reichstag*:

It makes an immense difference what kind of parliament you have. If you have a parliament with a strong, homogeneous majority, organized under the kind of leadership England has . . . , a parliament like that would be a tremendous power which in certain circumstances could limit the Upper House and the Crown to a very small place and little movement. When we have that, Gentlemen, then come here again, and we will talk the matter over again. But a parliament which consists of an appreciable number of groups, 8 or 10, which has no constant majority or recognized united leadership, ought to be pleased if there exists the ballast of a royal government, a royal will in the vessel of state. If this did not exist, all would fall into ruin, and chaos appear.

We have seen (above, p. 606) that Bismarck himself did his level best to prevent the *Reichstag* from having "constant majority or recognized united leadership." He, who had been responsible for the presence of a parliament in the Hohenzollern structure of government, always saw to it that the parties and their leaders were "kept in their places." The old *Reichstag* moreover was burdened with the memory of failure—the failure of the Frankfurt assembly in 1848, the defeat of the Prussian Lower House in the 1860's. Although toward the end of the Hohenzollern regime, under weaker chancellors, a kind of half-parliamentarism developed, it was never recognized as the embodiment of popular sov-

ereignty, or even the equal of what Germans had come to regard as "real government," the authoritarian executive.

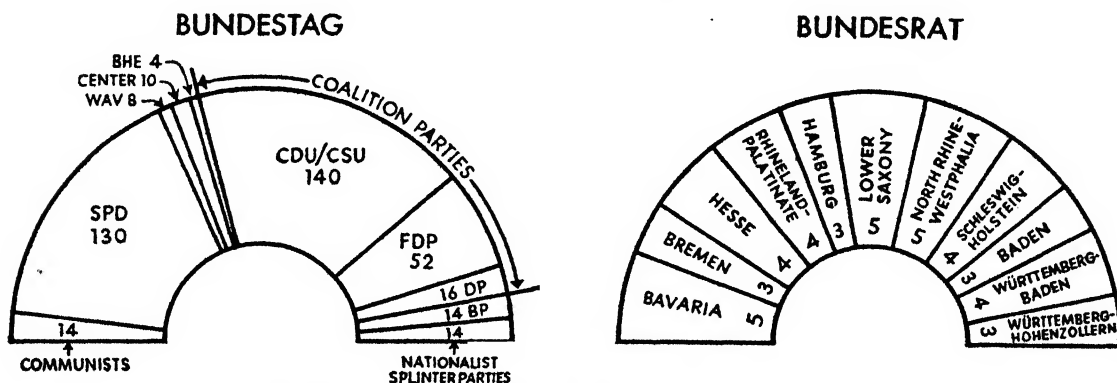
The fear that "chaos would appear" if Parliament was not counterpoised by an independent power was present even when the democratic tide brought the Weimar regime into existence. It has been shown (above, p. 614) how the Weimar Constitution tried to check the power of Parliament and of parties by that of an Execu-

ected "Lower House" (*Reichstag, Bundestag*). The other body, the Federal Council, has never consisted of elected deputies; it will be dealt with separately below.

### Composition of Parliament

German "Parliament," in this narrower sense, has always contained multiple political groups without one having a majority. They are seated

## THE WEST GERMAN LEGISLATIVE BODIES (As of 1951)



Abbreviations of party names are explained in the text. The deviation in *Bundestag* seat distribution from figures in column on p. 678 is due to changes which have occurred between 1949 and 1951.

tive partly (as Cabinet and Chancellor) responsible to it and partly (as President) independent of it. This kind of Parliament functioned for a while on what may be called the French pattern; yet when the emergency arose it proved unable to function properly; all it was allowed to do then was to consent to the executive's rule by decree. Nazi totalitarianism did not even permit it to die honorably but used it as a façade for its alleged "ennobled democracy." Parliament is now reduced to a similar role in the Soviet zone "Democratic Republic." In Western Germany, on the other hand, the *Bundestag* has emerged as a genuine parliamentary and representative institution. Bonn has given German parliamentarism a second chance.

The term "Parliament," in the narrower sense of a representative assembly, in German federal government, refers to only one of the two bodies which have made up the legislature, namely, the

in a semi-circle (as in France, p. 312), with governmental representatives facing the deputies (not, as in Britain, sitting on the front bench of one of the two opposed sides of the house). But, unlike France, the various parliamentary groups are separated from each other by deep doctrinal and other differences. Consequently, there is no reorganization of party groups in Parliament after an election. The parties are fixed once and for all, they move as separate armies into a new Parliament, and even an individual deputy's crossing from one party to another is extremely rare.

Unlike Britain and France, there is in the German Parliament little real debate or brilliant oratory. On the other hand, disorder and use of strong and abusive language have been frequent, reflecting not only the presence of radical parties but also the general lack of respect for the institution of Parliament. This, in turn, has in-



fluenced the German opinion of Parliament as a place where interest groups wrangle and the commonweal is lost.

#### OCCUPATIONAL COMPOSITION AND REPRESENTATION OF SOCIAL GROUPS

How do German parliaments reflect the social stratification of the German people?<sup>1</sup> In modern legislatures there are two ways in which deputies may represent the electorate: One, best illustrated by American legislatures, is indirect representation of social classes and interest groups through a group whose profession it is to represent somebody else: the lawyer. In the French Parliament, too, lawyers (and teachers) abound. Germany belongs to the direct type, where members or representatives of specific social groups and occupations are themselves deputies. In this respect German parliaments resemble the House of Commons; but while the British businessman usually has himself directly elected into Parliament, corresponding German groups prefer to be represented by full-time officers of industrial and similar associations. Our table shows how little German habits have changed in this respect, despite changed election systems and changed social and political conditions. Percentages of groups have varied little between 1928 and 1949. The strikingly low number of workers and white collar employees in Parliament is explained by the fact that the table is not based on the professional and educational *background* of the deputies, but upon their professional status *at election time*. Workers and employees are usually represented by trade union officials, party functionaries, or journalists, persons who usually have had workers' background but have become "professional politicians." Thus the "lower classes" are generally represented by persons who have risen in social status.

Contrary to common opinion, career officials are not numerous among deputies; most of those who appear as officials in the statistics are "political officials," who got their jobs as officials through their party. Political officials, party functionaries, and party journalists comprise over 40 per cent of the present *Bundestag* membership. Inasmuch as German parties represent

specific classes and interests, it can be said that German classes are represented in parliament directly, through "their" parties, through their interest organizations (trade unions, industrial and agricultural associations, and so forth), or lastly (and this mostly in the case of proprietors, managers, and members of the professions) through individual members of the occupational groups.

This means the absence, in the main, of the "lobby" as known in the United States. The interests themselves sit in Parliament, as they do in Britain; when they do not, they try to influence the executive and the party leadership rather than individual deputies. The new, mixed, election system has, however, sent a somewhat larger number of representatives of smaller, local interests into the Bonn diet than existed under pure PR, so that the larger, nation-wide pressure groups find it necessary to devote some effort to influencing them individually.

#### POLITICAL AND EDUCATIONAL BACKGROUND

About 65 per cent of the *Bundestag* members were active in pre-Hitler politics. Thus post-Nazi political life has been largely a return to the old groove; younger people have had little opportunity or desire to enter Parliament. There is a fairly high percentage of "persecutees" (inmates of concentration camps, and so on) among the Leftist parties' deputies (11 of 15 Communist deputies, 32 of 130 Social Democrats). On the other hand, 14.5 per cent of the total membership held leading governmental, academic, or industrial positions under the Nazi regime. Most of them now represent Rightist parties (21 of 52 Free Democrats, 6 of 17 German Party deputies). The percentage of deputies with university degrees and similar certificates has always been high in Germany, especially among those of the middle class parties. The total percentage of this group in the 1928 *Reichstag* was 36.8; at Bonn it is 41.1.

Thus the German Parliament may be said to reflect fairly not only the political attitudes of the population but also the various interests into which the German people are divided. But the accent has been on "divided." This has been apparent in parliamentary organization as well as in action.

<sup>1</sup> On the present *political* composition of the *Bundestag* see tables on pp. 667-68, and chart on preceding page.

**PRESENT PROFESSIONAL STATUS OF BUNDESTAG DEPUTIES COMPARED  
WITH THAT OF THE 1928 REICHSTAG**

Groups	Number of Deputies	Percentage of Total Membership	Percentage of Membership of 1928 Reichstag
Officials with political background	84	20.9	16.3
Career officials	5	1.2	3.6
Party functionaries	61	15.2	20.0
Journalists, writers, publishers	33	8.2	12.9
Leaders of refugees and war-damaged persons	33	8.2	—
Owners and managers of industrial or financial enterprises and officers of industrial associations	40	9.9	8.3
Agricultural owners and officers of agricultural associations	37	9.2	13.7
Retail businessmen, artisans, officers of their associations	18	4.5	6.5
Officials of trade unions, co-operatives, social insurance agencies	34	8.5	10.6
Workers and white collar employees	3	0.8	0.2
Free professions (lawyers, teachers, doctors, etc.) and housewives	54	13.4	7.9
Total	402	100.0	100.0

Adapted from O. Kirchheimer, *The Composition of the German Bundestag*, *Western Political Quarterly*, vol. 3, 1950, p. 597.

## The Organization of German Parliament

### FRACTIONS

In its organization, German Parliament reflects the division as well as the stability of the political parties. The most important units in a German parliament are the parliamentary party groups called "fractions." A fraction consists of the deputies of the same party. Thus, one speaks of the CDU fraction or the SPD fraction in a given Parliament. Unless there is a subsequent schism or secession (something very rare in Germany), deputies belonging to the same party always constitute one single fraction, despite *political* divergencies and "wings" which may exist within the party. The major reason for this cohesion is that fractions dominate parliamentary procedures, and fraction strength determines important rights. Fractions, for example, are represented in committees by members selected by them in proportion to their strength; time for debate is assigned to fraction spokesmen, likewise often in proportion to fraction strength; only fractions may introduce legislative motions.

Thus there is little an individual deputy may do, especially a "fractionless" one. Moreover, in order to discourage splinter parties German par-

liamentary standing orders usually prescribe a minimum number of members a group must have in order to qualify as a fraction. In 1949 Bonn standing orders required 10, a number which was raised to 15 under new standing orders late in 1951. This is why deputies belonging to small parties sometimes get together to form one larger fraction, or join an existing one as "guests." If a group fails to attain, or loses, minimum fraction strength, it loses its influence in Parliament. This happened to the Communist group in the *Bundestag*, when, under the new standing orders, its number no longer came up to the required minimum.<sup>2</sup>

### SPEAKER AND STEERING COMMITTEE

Parliament elects its speaker (President) and his deputies, who preside over the sessions. The speaker has important disciplinary powers. He may, for instance, exclude a deputy for thirty session days. But by far the most important body for the organization of procedures is the

<sup>2</sup> Legally more doubtful was the action of the Northrhine Westphalia *Land* diet, which, in order to deprive the CP of its fraction status, adopted a rule according to which groups whose members or party "disturb the constitutional order of the *Land*" are not to be recognized as fractions. As long as a party itself is not outlawed, it would seem that the fraction should be legal too.

Steering Committee (Council of Elders), on which the fractions are represented according to their strength. This committee prepares the calendar, and appoints committee chairmen. In practice it also determines how much time will be devoted to a motion, and how such time is to be allocated to the various groups. While Bonn Standing Orders give each speaker in principle one hour, the pressure of work, as in other parliaments, demands restrictions, which may be voted by Parliament. In doing so Parliament usually ratifies the proposals of the Steering Committee. Thus, even in important cases, there may be only one hour for an entire discussion, with ten minutes for the initiator of the motion and only a couple of minutes for spokesmen of the other fractions. Each group is represented by one member only, which again illustrates the negligible influence of "backbenchers." Closure is by vote of Parliament upon motion of at least thirty members present, a procedure resembling that in the French National Assembly rather than that of the House of Commons.

#### INDIVIDUAL DEPUTIES

The parties and their leaders are thus in control. The individual member, within or outside a fraction, is under party discipline. Although he does not always have to vote according to policy laid down by his party, in important cases he is compelled to do so by fraction decision under penalty of exclusion from the party or loss of party backing in a new election.

As in Britain, but unlike the United States and, to some extent, France, the elected representative is generally considered to represent, not so much the local unit from which he is elected (local people, local pressure group, or local boss), but the national party organization. Therefore, once elected, the deputy continues to be under the sway of party leadership in Parliament. Since campaign funds come equally from the party chest or from groups backing the respective party the deputy depends for his reelection chiefly on his good standing with the party. Breaks of party discipline or disagreements with the party over policies or program usually mean the end of the deputy's political career. He stands little chance if he tries to

run as an "independent" or to form a new party. All this, while hampering individual initiative, makes for coherent party action. In contrast to an American voter, the German voter at least knows what he is voting for.

## II. GERMAN PARLIAMENT IN ACTION

German Parliament does not differ from other parliaments in following that modern trend in government in which lawmaking, formerly largest among the functions of representative bodies, recedes in importance before the function of controlling and supervising the executive. But this is somewhat less true of German than of British or French parliaments. In the parliamentary type of democracy the crucial question is how to combine effective supervision by Parliament with stability of government. After German parliaments emerged from the position of subservience to the executive which they occupied in the Hohenzollern period, they tried to play the role of makers and unmakers of cabinets which the Chamber of the French Third Republic played. This led to similar cabinet instability. But in contrast to France, and as in Britain, the executive under Weimar possessed the power of dissolution, and eventually emerged as the stronger power, destroying effective parliamentary control altogether.

### *The Bundestag and the Executive under the Bonn System*

#### PARLIAMENT AND EXECUTIVE

The lesson which the makers of the Bonn Constitution drew from Weimar experience was to strengthen the executive without conferring important powers on the President. Strong executive power is vested in the Chancellor. He is elected by the *Bundestag*, to be sure, and the latter may even elect a person different from the one nominated by the President. But once elected he can be compelled to resign only by means of the so-called "constructive vote of non-confidence," that is, a vote by which the assembly simultaneously, and with a majority of its legal membership (as distinguished from simple majority of those present), deposes one

Chancellor and elects his successor. This device, which is also more and more favored by the individual *Land* constitutions (it was actually copied from the Württemberg-Baden Constitution), is intended to prevent a situation where opposition parties on Right and Left could join to overthrow a government without being able to form a new one. The Chancellor's powers are further strengthened by the fact that he appoints and dismisses cabinet ministers independently of Parliament, and that he can ask the President to dissolve Parliament. The power of dissolution, to be sure, can be employed only when the Chancellor's demand for an expression of confidence has been rejected. It is thus more restricted than that of the British Prime Minister (p. 60) who can freely choose the moment he wants to have a new election. Still, considering that the German Chancellor, far from being leader of a majority party, represents a party coalition, his position is remarkably powerful.

This peculiar relation between Parliament and Executive may conceivably lead to a constitutional stalemate; for instance, if ever Parliament refuses a vote of confidence and yet is unable to elect a successor to the Chancellorship, while the Chancellor decides to stay and refuses to dissolve Parliament and have new elections. Should the Chancellor, in this situation, manage to keep the other legislative body, the Federal Council, on his side, he may try to rule under the "state of legislative emergency" provided for by the Constitution (see below). Otherwise, there would not appear to be a constitutional solution to such conflict.

Two minor constitutional conflicts over respective rights of Parliament and Executive have already occurred, and in both the Executive has emerged on top. One conflict occurred in a *Land*, with provisions similar to those of the Bonn Constitution, when a newly elected Minister-President was unable (or unwilling) to form the coalition cabinet which, according to prior understanding between the parties, he had been supposed to establish; he then, at first, governed with a one-party minority cabinet. In this way, one party, the one to which the premier belonged, was able to control, or deceive, the others. In the second instance, a party in the *Bundestag* brought a motion of non-

confidence against a minister, apparently taking it for granted that the customary right of parliaments to compel individual ministers to resign was still in existence. Although the matter did not come to a head (the motion was withdrawn), the Executive made it clear that any such motion would be interpreted as merely asking the Chancellor to dismiss the respective minister, a request which he might or might not choose to fulfill. In the absence of an acceptable alternative, the Chancellor is thus in a position to perpetuate himself in office, and also to form any kind of cabinet he desires. In sharp contrast to the usual parliamentary systems with coalition governments (like Weimar, or France today and yesterday), this new system has so far led to remarkable executive stability. Whether this advantage will outweigh the corresponding danger of executive dominance and parliamentary weakness, remains to be seen.

#### QUESTIONS AND INTERPELLATIONS

In its supervising functions, the German Parliament has always had at its disposal the techniques customary in Continental parliamentary systems. Thus, like in France, there are interpellations and questionings (pp. 317-319). Interpellations, however, have to be signed by thirty deputies, and questions by ten; this means that criticism and control are functions of the larger parties, and not of "private" members or small parties. Thus the delays and the excessive demagoguery which characterize French Parliament are avoided; but the initiative and independence of the individual deputy is stifled in favor of party controls. German parliamentary practice has failed to endow questions with the prestige that has rendered the British "question period" an effective check on the executive part of government. To some extent, "questioning" executive action and policies still partakes of the old notion of "impudence" attributed to criticism of the established authorities in Germany. The newly adopted *Bundestag* standing orders try to encourage questioning by allowing a regular question period on the British pattern.

Investigation committees are likewise supposed to serve as checks on executive powers or actions; but they have frequently been used (although not quite in the manner of the United

States Congress) for partisan, demagogic, or electioneering purposes. The Bonn Constitution in addition provides for a standing committee which shall "safeguard the rights of the House against the Government" in between two legislative terms.

## Lawmaking

### ORDINARY LAWS

In regard to the control of legislative procedure, Germany stands between Britain, with its cabinet control, and France (as well as the United States), where Parliament is in full control. In Germany laws have traditionally been enacted by two chambers; and in the federal government since 1871 as well as in the member-states since 1918, the executive has had no direct powers over lawmaking, not even veto-powers. But the trend toward an increase in the influence of the executive over lawmaking is found in Germany as elsewhere. It appeared especially early in Germany, because of the traditional authority of the expert, and, particularly, the role of the ministerial bureaucracy in the preparation of bills. To a higher degree than elsewhere lawmaking in Germany, in drafting, "processing" and execution, has been lawmaking of, by, and for the bureaucracy. Little remained for the people except to be "under" the law thus made.

While bills may originate in Parliament as well as in the Cabinet, most of them are drafted in some executive department by expert jurists.<sup>3</sup> Members of Parliament as such have no expert draftsmen, and there is no "legislative reference service" of the American type. Under the Bonn provisions, bills prepared in a ministerial department go to the Cabinet, which has to approve them, and from there to the *Bundesrat* (Federal Council; on its composition see below). This body scrutinizes them thoroughly with the help of committees set up for the various fields of legislation. From the *Bundesrat* the bill goes to the *Bundestag*. There may be separate suggestions from the *Bundesrat*, but usually differences between that body and Cabinet are smoothed out before submission to the *Bun-*

*destag*. There follow the usual three readings, with the second one the most detailed. Prior to the second reading the bill goes to committee; this stage is by far the most vital one. In plenary session, often only one member of each party discusses the bill, and possibly under time restrictions. In the committees, which are set up according to subject-matter (at Bonn, there are forty of them), the parties are represented by their respective experts, and it is here that important bills receive careful scrutiny.

### FINANCIAL LEGISLATION

In financial legislation the German system is somewhere between the British, where the Cabinet, and especially the Treasury, is in complete control, and the French, where Parliament is accustomed to exercise its discretion. In Germany there is a tradition of a comprehensive, well-prepared, and well-co-ordinated budget, to be adopted annually in the form of a law dealing with both revenues and expenditures. The finance ministry is in charge of its preparation. While this resembles the British system, there is more real debate and scrutiny of the budget bill in the German Parliament, and changes are likely since the Cabinet usually is not as sure of a majority as its British counterpart. There is a practice, however, which now has become an express constitutional stipulation, under which expenditures may not be increased without the approval of the Cabinet. Such a rule, which corresponds to one of the Standing Orders of the House of Commons (p. 97), if rigidly observed, may well lead to Cabinet control of financial legislation similar to the British system. There is even a tendency to apply this provision to *all* bills which involve expenditures not foreseen in the annual budget. This would, in practice, make the Cabinet master of almost all legislation.

### CONSTITUTIONAL AMENDMENT

Under the Hohenzollerns as well as Weimar, German constitutions have been flexible rather than rigid. Constitutional amendments could be passed by way of ordinary legislation through the regular legislative agencies, under the Empire with the proviso that fourteen votes in the *Bundesrat* could block an amendment (thus

<sup>3</sup> The Bonn fractions, however, have begun to show somewhat more initiative in initiating bills.

giving Prussia a veto), under Weimar with qualified majority of two-thirds of both houses. Under Weimar, moreover, a practice developed of passing statutes deviating materially from constitutional provisions, without bothering to amend the text of the Constitution. Such laws were held valid if only they were passed by the required qualified majorities.

Under the Bonn Constitution, as under Weimar, constitutional amendments can be passed by concurring two-thirds majorities in both houses. However, the Weimar practice of "indirect" or "silent" deviation from constitutional provisions is now prohibited. Amendments must expressly alter or add to the text of the Constitution, and certain constitutional provisions, such as those affecting the federal structure of government, are exempted from any alteration at all.

#### DECREES

Germany, a country where the bureaucracy is older than parliamentary institutions, has a long tradition of administrative legislation. When lawmaking became a function of Parliament, this tradition was continued, with Parliaments often passing mere "framework laws," to be implemented by executive decrees or ordinances. This delegation of lawmaking power to the executive has, of course, become more and more common with the extension of executive functions into all fields. Germans distinguish such decrees from "directives" from higher to lower authority in that "lawmaking decrees" bear on the rights and duties of citizens. The Bonn Constitution determines in which cases "lawmaking decrees" require consent of the *Bundesrat*. As a check upon the ordinance power of the Executive, German courts, even before the introduction of general judicial review, claimed the right, whenever an individual case came up, to review such measures as to whether they kept within the limits set to them by the "framework law"; if they were found to be *ultra vires* they were not applied.

#### "LEGISLATIVE EMERGENCIES"

Another type of executive decree had at one time proved to be more dangerous to German democratic institutions than "administrative decrees": the power to issue emergency decrees.

Experience with article 48 under the Weimar system (above, p. 617) led the authors of the Bonn Constitution to forego inclusion of corresponding powers in the new document. But a watered-down version of emergency legislation was retained nevertheless: In case Parliament refuses to vote confidence in the Chancellor (without, however, expressing non-confidence by voting for a successor) and the President (acting on the Chancellor's advice) does not choose to dissolve Parliament, he may then declare a "state of legislative emergency" after a bill declared to be urgent by the Executive has been rejected by Parliament. The bill, as well as any other bill rejected within a period of six months after such declaration, then becomes law if it is approved by the Federal Council. The Council, however, is not likely to be so different in political complexion as to be ready to play this game against a determined Parliament. This fact, together with the time limit and a restriction that emergency legislation must not amend or suspend any part of the Constitution, makes the actual application of this provision either more unlikely or more innocuous than article 48 had been.

While Germans seem to have learned a lesson from experience with article 48, they seem to have forgotten that Hitler's power, legally, was not so much built on article 48 as on the Enabling Act by which Parliament delegated its powers to the Cabinet (above, p. 629). Similar delegation of dictatorial decree power is nowhere prohibited in the Bonn document.

In one other respect the Bonn Constitution goes far to avoid previous shortcomings. There is no provision for direct legislation through popular vote. The omission seems justified in view of experience with "plebiscites" in the Weimar period. An exception is popular vote on an intended change of *Länder* boundaries.

#### ALLIED LAWS

Altogether, lawmaking in the Federal Republic does not greatly differ from lawmaking in the Weimar period. In addition, however, as has been explained before (p. 657), the occupying powers by 1951 still had certain reserved powers, among which was the power to enact laws of their own in the fields reserved to their jurisdiction. This power was exercised by the

Allied High Commission for the entire territory of the Republic, and by the individual High Commissioners for their zones. Such Allied laws overrode German law.

#### LAWMAKING IN EASTERN GERMANY

In Eastern Germany lawmaking power, ostensibly possessed by the two chambers, the People's Chamber and the Chamber of States, actually means decree legislation sanctioned by Parliament. So far, proceedings in the chambers have been distinguished by absence of any opposition, of disagreement, or even of debate. All bills are adopted unanimously with rousing cheers. According to an SED source there were, within one year, only about 100 plenary and committee meetings of the People's Chamber, as against over 1,000 at Bonn.

### III. THE FEDERAL COUNCIL

#### General Character and Function

German Parliament, like parliament in most countries, has been organized in two houses, of which the elected one has been one. Second chambers in modern times are usually one of two types: they may represent a special, privileged class or caste (like the House of Lords in Britain), or they may represent territorial units of a federally organized country. The House-of-Lords type of "upper house," while known to the history of German political institutions (for instance, the Prussian *Herrenhaus* from 1850 to 1918), is now extinct.<sup>4</sup> The second chamber, since unification in 1871, has reflected the federal structure of the country. The old Hohenzollern *Bundesrat* as well as the *Reichsrat* of Weimar times and the new Bonn *Bundesrat* (and, theoretically, the Eastern German "Chamber of States") were all meant to represent in the central governance of Germany the federal element, that is, the member-states (*Länder*).

<sup>4</sup> The (1946) Bavarian Constitution, however, has a "senate," composed of occupational and similar representatives of over forty years of age; the body has purely advisory functions.

This function the German second chamber shares with corresponding bodies in other federal states, such as the United States Senate or the Swiss Council of States. The chief difference between these and the German Federal Council is that the former represent the people of the member units and the latter represents the units as such, that is, their respective governments and administrations. While the non-German second chambers usually consist of representatives elected by the people of the states (or, sometimes, their diets, thus representing the people indirectly), the German second chamber has always consisted of delegates *appointed* by the *governments* of the states and acting under their instructions.<sup>5</sup> On the other hand, while non-German second chambers usually are based on the idea of equality of member-states and therefore contain equal numbers of representatives from each, representation in the German second chamber has been weighted according to actual strength and influence of the member-units.

This has meant that, politically, the function of the Federal Council has been less the parliamentary one of representing the people *vis-à-vis* the government than that of being another part of government, in charge of co-ordinating lawmaking with execution of laws. German administration is generally characterized by the peculiar device of having member-states administer even federal laws. The persons sent by member-state governments into the Council (essentially a bureaucratic group consisting of high state officials) have therefore traditionally considered it their chief responsibility to co-ordinate central (federal) legislation with state execution and to see that no essential state interests were infringed upon by such legislation.

The Hohenzollern *Bundesrat* was the chief organ in the structure of the old Reich rather than a "second" chamber. That term applies more properly to its successors under Weimar and at Bonn, whose actual and constitutional powers are much smaller. Still, the present *Bundesrat*, while not comparable to the United States (or the former French) Senate, is more

<sup>5</sup> The Eastern German Chamber of States, however, if it ever should be allowed to function democratically, would be of the American type.



important than either the present House of Lords or the present French Council of the Republic.

### Composition

The Hohenzollern *Bundesrat* and the Weimar *Reichsrat* both had to grapple with the problem of Prussia, a member-unit comprising about two-thirds of Germany's territory and population. The old *Bundesrat*, as has been shown before (p. 605), was devised to perpetuate Prussian hegemony. Prussia, one of 25 member-states, had 17 out of 58 votes, which enabled it to block constitutional amendments. Prussian delegates would usually vote with those of some of the more important other member-states, which left the small units without influence.

The Weimar *Reichsrat*, on the contrary, was devised to lessen Prussian influence. After the merger of certain of the smaller central-German states there were 17 *Länder*, whose voting strength was according to population, with the proviso that no *Land* (meaning Prussia) could have more than two-fifths, and the further provision that half of the Prussian vote was to be controlled by representatives of Prussian provinces, who could cast their votes differently from those of the government-appointed Prussian delegates. Under Weimar, *Reichsrat* delegates were, of course, instructed by governments which usually consisted of coalitions of parties, and thus the atmosphere in the body became more political; but the delegates still acted largely as bureaucrats thinking in terms of state administration.

Under the present Western-German set-up the problem of weighting voting strength has been facilitated by the demise of Prussia. But the *Länder* are still vastly different in size and population (see below, p. 709). The largest in population has over 13 million inhabitants, and the smallest little more than half a million. Consequently, the Constitution allows those with more than 6 million 5 *Bundesrat* votes, those with over 2 million 4, and the others each 3. Each *Land* may send as many delegates as it has votes, but, as previously, can cast its votes only uniformly. It is thus the individual *Land*

cabinets which have to decide how, in a specific issue before the *Bundesrat*, the votes of a *Land* shall be cast. This may require a vote in the Cabinet, especially if it is a coalition Cabinet, and thus the policies of the *Bundesrat* are determined by what parties control the individual *Land* governments. In this way the party-political situation in the various *Länder* indirectly affects government on the central level.

Frequently, however, the vote of *Bundesrat* members reflects the economic and financial situation of their *Länder* rather than their party or religious affiliations. This aligns industrialized regions with few refugees (e.g., Northrhine-Westphalia, or Württemberg-Baden) against poorer sections with many refugees (e.g., Bavaria, Schleswig-Holstein). Such economic alignments differ from the traditional divisions of German federalism, and to that extent *Bundesrat* proceedings reflect the artificiality of present-day German federalism.

One can hardly say that the German second chamber has been a force for either "reaction" or "progress." Its political direction under Weimar and now under Bonn has reflected the political coloration of the governments in the *Länder*, which never deviated from that of the federal government sufficiently to lend the Council distinctive political features. While to some extent it has represented "states rights," it has in the main been the instrumentality through which member-state bureaucracies have maintained the rights and interests of their own caste and those of the administrations which they serve.

### The Powers of the Council

The Hohenzollern *Bundesrat* functioned in many fields but the Federal Council under both parliamentary systems (Weimar and Bonn) has been mainly confined to lawmaking. Politically, the elected house has been predominant; it alone, for instance, could and can cause the overthrow of government. As to lawmaking, the Bonn Constitution provides the Council with a veto power whenever the employment of a procedure that is modeled on the American "conference committee" fails to bring about agreement between the two chambers on a bill.

In that event, if the Council has voted its objections by simple majority, a majority of the legal membership of the *Bundestag* can override it; if the Council majority has been a two-thirds majority, overriding it likewise requires a two-thirds majority. In certain cases, mainly concerning financial legislation (for instance, distribution of financial resources between federal government and *Länder*), the Council has more than a suspensive veto; it has to give its consent. In these cases it thus is an equal partner in lawmaking with the *Bundestag*. The same applies to constitutional amendments.

Actually, this veto or consent power of the Council is less important than the right to scrutinize every government bill before it goes to the *Bundestag*. Here the *Länder* have a chance, through their governmental and administrative spokesmen, to raise objections so that compliance of federal legislation with the interests and wishes of the *Länder* bureaucracies is guaranteed at an early point. Bureaucracy here possesses another lever by which to influence German politics. While the Cabinet has the right to pass on its bills despite *Bundesrat* objections, what usually happens is that differences between the federal government and the *Länder* representatives are smoothed out.

The *Bundesrat* has, furthermore, the right to initiate legislation through bills of its own. But this right is seldom used. During the first quarter of 1951, for instance, the Council initiated three bills, stated its initial attitude toward thirty-nine government bills, and gave final consideration to forty-two bills passed by the *Bundestag*. Of the latter, one was vetoed successfully (the only case, so far, of a bill prevented from becoming law by Council veto).

In one exceptional case, that of "legislative emergency," the Council has a potentially highly political role (above, p. 689). In all other cases its role is the more modest although extremely useful one of co-ordinating lawmaking on the central level of government with the interests, and particularly the administrative machines, of the *Länder*.

## Conclusion

German parliamentary institutions illustrate not only the difficulty of German democracy but

also one which most modern parliaments in countries with older and firmer democratic traditions have encountered. Of the latter, only Britain has solved the problem of how to combine effective and purposeful executive government with real parliamentary supervision and criticism of the Executive, and even there many people feel that Parliament, in the process, has become a rubber-stamp in too many respects. Most democracies outside Britain suffer from the opposite evil, a system where an entrenched, oligarchic leadership of multiple mass parties uses its control of the parliamentary machinery to keep the Executive at all times under such close scrutiny that executive stability suffers and coherent and long-range governmental policies and planning become all but impossible. France, of course, illustrates this alternative. In Germany too, with its centralized party machines in firm control of parliamentary "fractions," this has been the drawback of its parliamentary processes whenever the principle of parliamentarism (cabinet responsibility to Parliament) was an actuality, as under Weimar until 1930. At other times, however, and more frequently, Germany's tradition of an authoritarian bureaucracy topped by an independently functioning Executive has brought about the opposite evil of rendering Parliament ineffective. Parliament may then still function as a smooth instrument for the effective performance of certain tasks, such as lawmaking, but its function of representing the "sovereignty of the people," through criticism, supervision, and otherwise, is then jeopardized.

Present Western German democracy has not yet found the happy medium between the two poles of party dominance over both Parliament and Executive, and executive irresponsibility. Party bureaucracies try to rule supreme through Parliament, while the administrative bureaucracy uses the cabinet and, within the legislature, the Federal Council, as levers for its control. In the struggle between these forces the strong position which the Chancellor holds under the Bonn Constitution has so far favored the antiparliamentary forces. With its resulting cabinet stability it has for the time being prevented the extreme of party and parliamen-

tary control which has been the bane of the French parliamentary system. But it entails the opposite danger of dooming Parliament to impotence or subservience. Whether German Parliament will yet be given the chance to fulfill the vital functions of watchdog and "voice of the people" depends on whether parties and deputies will be ready to wage a fight for such role, on the one hand, and, on the other hand, on the future attitude of the Executive and the bureaucracy toward Parliament. This problem will be taken up in the next chapter.

## CHAPTER 6

# Executive and Administration

### I. CENTRAL GOVERNMENT

A well-conducted government must have a system as well-knit as any system of philosophy; all measures taken must be well-considered, and finances, policy, and the army must move together toward the same purpose which is the strengthening of the State and of its power. Now, a system cannot emanate except from one mind; therefore it must issue from that of the King. . . .

These words, from Frederick the Great's "Political Testament," set the theme which runs through the history of German political institutions up to our day: The ideal of service to the State (with a capital S) and the idea that Government (with a capital G) must be "monolithic" and under strong executive leadership. Whether such leadership was vested in Prussian kings, or later in an Emperor and "his" Chancellor, or in a President with broad powers of his own, or eventually in a fascist *Führer*, and whether the source of its authority was in "divine grace," as in monarchical times, or, as subsequently, in the confidence of the people, does not really matter. What matters is that Germany traditionally has expected its fate to be determined by executive leadership, and not by representatives answerable to the popular will. Leadership until 1918 was in the hands of dynasties assisted by a class of hereditary nobles, who managed to convey the "feudal" spirit to those from the middle classes who were drawn into the ranks of leadership (above, p. 608). This leadership was discredited after World War I, and an attempt was then made to entrust the State to representatives of the people. But a large proportion of the people had no faith that party leaders could fill the exalted places va-

cated by kings; they chose an old *Junker* Field Marshal to be their leader. President Hindenburg considered himself the temporary placeholder for a revived monarchy, but instead of a new William the Germans got Adolf, and with him a dose of arbitrary leadership which in the end disgusted even some of the most authoritarian-minded. With the downfall of the Nazi system there was thus some readiness to try democracy once more.

The German ideal of centralized and co-ordinated executive leadership in practice has always been affected by two counterforces: first, the desire of the various social groups and classes to make their influence felt and have their interests represented in the Executive, and second, the federal organization of Germany, under which executive power and functions had to be divided between a central and a regional level. It is against this somewhat complicated background that the problems of present German executive government have to be viewed.

### *Eastern German Government*

Eastern Germany, in this respect, presents a clear-cut solution. There is, first, the complete victory of centralism. All executive leadership is vested in a central government, of which the *Länder* and their governments are mere administrative subdivisions without discretion of their own. In this respect, also, Communist totalitarianism simply repeats what Nazi totalitarianism had done before. Everything, including economic planning, important legislation, and even the administrative direction of fields still nominally under *Land* jurisdiction, such as education, is handled at the top level. Second, the tradition of tension between the executive and

"the interests" does not exist any more because *one* "interest," *one* group, is supreme. The Constitution of the German Democratic Republic has become a façade for the leadership of the "State Party," the SED. The members of the central government, President as well as Minister-President and cabinet members, are figureheads, unless they are simultaneously leading members of the SED, such as members of its Politburo. So far, the situation in this respect resembles that of the Soviet Union before Stalin assumed formal premiership. Walter Ulbricht has not yet taken over official governmental leadership; he is merely one of the five vice-premiers surrounding (and encircling) the prime minister. His real power, of course, emanates from his being Party Secretary and boss of the Politburo. President Wilhelm Pieck, an old Communist, wields as little influence in inner party circles as does premier Otto Grotewohl, a former Social Democrat who clinched the merger between Communists and Social Democrats in 1946 and since has been subservient to the Communist leadership of the SED. As in the Soviet Union, the large number of central ministries (see chart, p. 699) has resulted in rendering most of them technical-administrative agencies without policy-making powers. Moreover, there are certain government agencies outside the ministries proper which, with their supervising powers, act for the Party rather than for government. An example is the Central Commission for State Control, which is charged with eliminating bottlenecks, preventing "sabotage," enforcing "discipline," and otherwise seeing that Eastern German economy functions properly. The Office of Information, headed by the Eastern propaganda chief, Gerhart Eisler, is likewise outside the ordinary ministerial setup. The civil service, as will be shown below, exists no longer in its traditional form; instead there are public employees completely "co-ordinated" under the regime.

## Western German Government

### PRESIDENCY

In Western Germany the situation is not so clear-cut. Heir to the entire history of German institutions with all its complications, the Bonn

government presents a picture of struggling tendencies and conflicting forces. The Constitution itself, as has been shown, facilitates the emergence of a strong Executive. But unlike Weimar, it is no longer the Presidency from which any new authoritarian controls are likely to derive. The Federal President, unlike the Weimar President, is not elected by the people but, as in France (p. 335), by a joint parliamentary body, consisting of the members of the *Bundestag* and an equal number of members elected by the *Land* diets. While he has the customary representative functions of a head of state, he has little influence over actual government. Unlike the Weimar President, he cannot dismiss Cabinet or Chancellor, and he has no emergency powers of his own. Such acts as are formally his (for instance, appointment of federal officials, exercise of the right of pardon), must be countersigned by the Chancellor or the respective minister. His one important power, subject to approval by Parliament, is the designation of a Chancellor. Here, under the multi-party system, his discretion will generally be greater than that of the British king; it is comparable to the French president's (pp. 335-38). There remains the question whether he may *refuse* action proposed to him by the Chancellor or the Cabinet (for instance, appointment of a minister proposed to him by the Chancellor, or dissolution of the *Bundestag* when this body refuses to express confidence in the Chancellor, or declaration of a "state of legislative emergency"). Such residuary power is denied in the parallel case of the British king (p. 126). President Heuss, at the occasion of the cabinet formation of 1949, seems to have tried to exercise independent judgment by attempting to influence the Chancellor's choice of ministers, but since then he has not shown any similar sign of independence. In view of the powerful position of the Chancellor under the Constitution, the President is not likely to become a strong executive leader.

### CHANCELLOR AND CABINET

The changing relationship between Chancellor and Cabinet reflects the history of German constitutional developments. Under the Hohenzollern regime, beginning with Bismarck, the Chancellor was the only leader. Heads of de-

partments, appointed and dismissed at his suggestion, had no part in the formulation of general policies, and the Chancellor could at any time interfere even in their departmental business. They were "clerks," and no feeling of group action or group responsibility could thus arise. After Bismarck's death, it is true, some leeway was left to them by weaker Chancellors, but still they did not form a council directing German affairs.

Under Weimar responsibility shifted from Emperor to Parliament, but the question remained whether the Cabinet should act as a group of equals or as subordinates of the Chancellor. The Constitution provided for an in-between system under which the Chancellor was to be responsible for the "general lines of policy," while each minister, within these lines, was to direct his department independently. Cabinet decisions were by majority vote, with the important proviso (adopted in 1922) that the Finance Minister could veto any decision involving budget expenditures if the Chancellor was on his side. In practice, since all Cabinets were coalition affairs, group action was determined by the Cabinet's dependence on backing by the parties forming the coalition. The Chancellor could not, in practice, "determine" a line of policy which violated the underlying agreement among the coalition parties lest he risk the dissolution of the coalition. A cabinet majority, likewise, could not, in practice, vote against the line of one of the coalition partners without incurring the same risk. The work of the Chancellor, therefore, involved all the difficulties of the French premier (p. 333). He had to manage his own party, the leaders of the other coalition parties, Parliament, the President, the civil service, and other groups such as the leading *Reichswehr* (army) generals, whose authority, while not provided for in the Weimar Constitution, was nevertheless real. No wonder that he had no time to provide forceful leadership.

The provisions of the Bonn Constitution in regard to the relation of the Chancellor to the Cabinet and ministers are almost the same as those of Weimar. But in practice the Chancellor dominates the Cabinet because he is fairly safe from dismissal for the legislative period and free to form and reform his Cabinet (pp. 658, 686-87). If, as at present, he is a strong per-

sonality, his office comes close to wielding the authority of the Hohenzollern Chancellorship, and the danger of "autocracy" is undeniable. Konrad Adenauer has been charged with ignoring his ministerial colleagues in laying down policies or taking major political steps; it has been asserted that he presents them frequently with accomplished facts, denying them a chance to voice their opinions and offer their advice. These complaints increased when the Chancellor, in addition, assumed the post of Foreign Minister. On the other hand, with the emergence of two major parties, one the leading government party, the other the major opposition group, there has for the first time in Germany developed a practice whereby the head of government approaches the "leader of the opposition" (SPD leader Kurt Schumacher) and informs him of major policies, occasionally even trying to iron out difficulties before a major parliamentary debate. In this respect the new Western German system may in time draw closer to the British system.

#### RESPONSIBILITY TO PARLIAMENT

A genuine parliamentary system, in the sense of enforceable responsibility of the Executive to Parliament, existed in Germany only as long as the Weimar Constitution functioned. Even then a minister, representing "his" party rather than his department, more frequently would resign when the party decided to leave the coalition than risk being voted out of office. Resignations of Cabinets, likewise, would more often result from internal dissensions or disintegration than from outright defeat by a parliamentary majority. At present enforcement of responsibility is even more unlikely. Individual ministers can no longer be forced to resign; and the "constructive" vote of non-confidence in the Chancellor (under which he can be compelled to resign only if his successor is appointed by a simultaneous vote of the majority of the legal membership of the *Bundestag*) renders his being forced out of office an extremely remote possibility. The present Bonn Cabinet is still a coalition government, but the Christian Democrats hold nine out of fourteen positions in it, including the most important ones. It is true that the other coalition partners, Free Democrats and German Party, are needed to give the

Cabinet *Bundestag* backing and, theoretically, might withdraw from the government if their wishes are disregarded. There were rumblings of Cabinet dissension, for example, over the issue of co-determination, when Chancellor Adenauer agreed to concessions to the Left which were distasteful to his more Rightist partners. But in such an event, since Right and Left could hardly join hands in forming a new government, the Chancellor, in all likelihood, would still not be overthrown, and, if he should not resign voluntarily, might go on governing without parliamentary majority. If his bills were rejected, he might try to rule under the "state of legislative emergency" (p. 689). Under these conditions, Cabinet stability is hardly an issue any more; but genuine "responsible government"—in the British or French sense—is.

#### MINISTERS AND PERMANENT BUREAUCRACY

The traditionally loose relation of ministers and Parliament has strengthened the association of political executive and permanent bureaucracy. Before 1918 the government was entirely a "committee of the bureaucracy." Most ministers arrived at their posts through an official career. Of eight Chancellors between 1871 and 1918, seven were jurists by training, and of the "Secretaries of State" (federal ministers) 70 per cent had been civil servants and 14 per cent army officers. During the same period, of a hundred Prussian ministers seventy-nine had been civil servants and fourteen army officers. They were administrators, not statesmen; they were inclined to deal with legal "situations" under legal rules, not with people.

When democracy took over in Germany, the minister had the dual function of representing his party and of directing his branch of administration. Combining these apparently contradictory functions is the art of ruling in any parliamentary system. In Germany the minister has proved to be either an official who considered administrative tasks only (or a weak politician dominated by his top civil servants), or a politician paying attention to party and group interests to the neglect of administration. The latter, "political," type has been most loudly criticized, usually by conservatives, but the administrative type has been predominant. Ministers are not necessarily members of parliament

(in 1951, four of the fourteen members of the Bonn government were not). This permits a wider selection, but it has sometimes meant putting "neutral" civil servants at the head of a department. Qualifying as experts rather than "party politicians," such ministers tend to sacrifice responsible government to "unpolitical" expert rule from above.

Even a "political" German minister is more shielded from political contacts and more closely surrounded with bureaucrats than his French or British colleague. There is no "cabinet" of the individual ministers as in France (p. 345). Much of his time is spent with the *Bundesrat*, itself a bureaucratic institution (above, p. 690), or, if he is a *Land* minister, he may himself be a member of the *Bundesrat*. Moreover, unlike his British colleagues (p. 115), he may be without parliamentary experience. Thus the danger of his coming under the influence of his bureaucratic assistants is a real one in Germany, the more so because the ministries are staffed entirely with permanent civil servants, except for under-secretaries (in Germany called "secretaries of state," usually one for each ministry). It is this unchanging ministerial bureaucracy, much more than the ministers themselves, which is in charge of government and administration alike. The minister is generally little exposed to "popular" contacts and influences; what counts is to keep on good terms with the narrow circle of the leadership of his party (to which he himself may belong) as well as with the representatives of the chief "interests" (pressure groups) which his party embodies and which back the party. The minister is the point where bureaucracy and major interest groups meet. In the interplay of these forces, his policies have somehow to take account of both. Popular forces and tendencies not thus represented are, for the most part, only dimly perceived from the heights where ministers dwell. Popular scrutiny and criticism—through debate and questioning in Parliament, discussion in the press, press conferences, or similar devices which in the West have been instrumental in rendering democratic controls real—in Germany have seldom been used to full effect.

An "official-type" leadership prevails in the Bonn Cabinet. Characteristically, the two present "strong men" in the Cabinet, Chancellor



and Interior Minister, were originally career municipal civil servants. Both Konrad Adenauer and Robert Lehr prior to 1933 had been mayors of big Rhenish cities, where, under the Rhenish form of city government (see pp. 714-15), the mayoralty was patterned in favor of strong executives. It has been jokingly asserted that Adenauer rules Western Germany according to the old Rhenish municipal government charter rather than according to the Constitution. Lehr's biography is perhaps representative of the trend as well as the tradition of German executive leadership. Son of a Prussian officer, he studied law, entered the administrative government service, reached the peak of his pre-Nazi career as mayor of Düsseldorf, and was not a member of one of the "Weimar coalition" parties but a German Nationalist on good relations with the Ruhr industry. Retired by the Nazis in order to make room for a party member, he returned to politics after 1945 as one of the Protestant leaders of the CDU. His official background and his industrial connections would seem to account for his appointment to the position as Interior Minister at least as much as his party and religious affiliations. Adenauer's background and career constitute the Catholic countertype to Protestant Lehr. Likewise trained in the law, he first was an attorney, then rose rapidly in municipal civil service, combining the position of mayor of (predominantly Catholic) Cologne with that of Center Party leader. After 1945 he emerged as one of the founders of the CDU. His connection with civil service and industry is strong, and, in addition, he always advocated close collaboration of these German circles with corresponding ones in Germany's Western neighbors, particularly France. This, in Weimar times, earned him a reputation of being "pro-French," and now has made him the strongest German protagonist for Western European integration.

#### ORGANIZATION OF CABINETS AND MINISTRIES

Ministries, in Germany, have always been organized functionally. The number of ministries varies slightly according to political requirements at the time of cabinet formation or reformation. There may be an occasional "minister without portfolio," or a ministry may be

established in order to provide some coalition party with a portfolio, as with the present Bonn ministry "for Federal Council Affairs," but a ministry is usually in charge of a well-defined major field of government. This is more efficient than the somewhat untidy practice in Britain and the United States (independent agencies, boards, etc.). On the other hand, Germany's federal structure has rendered the distribution of functions between central (federal) and regional (*Land*) ministries a major problem. Certain fields under *Land* jurisdiction may not be represented by a ministry at the central level at all (for instance, education at present in Bonn). Elsewhere central ministries may exist but chiefly as agencies for the preparation of federal legislation and without administrative machinery and executive powers of its own, which, in these instances, are lodged with the different *Länder* and their ministries. "Justice" and "interior," for example, both under Weimar and Bonn, have functioned mainly on the *Land* level, and the respective central ministries, which exist side by side with the *Land* ministries, have been chiefly in charge of drafting uniform legislation in these fields.<sup>1</sup>

In the Anglo-Saxon countries the "Administration" with its executive activities is concentrated in the capital. American federal government is still largely identified with the federal "departments" in Washington; and in Britain, too, there are outside of London for the most part only local agencies. Since the latter are frequently citizen-run, "the state," with its machinery of appointed bureaucrats, is remote from the ordinary citizen. In Germany, the "state" is diffused throughout the country. There is hardly a town without a number of public administrative offices or authorities side by side with municipal agencies. A large number of officials is found in all large cities, and the bureaucracy thus permeates society. This decentralization of the executive means that ministries, whether federal or *Land*, are small and compact. Compared with the thousands of employees in each of the Washington federal agencies, a German

<sup>1</sup> The table illustrates how fields are distributed among ministries, and ministries among parties, both in Eastern and Western Germany. Abbreviations in brackets after names indicate party affiliations; they are explained in Chapter 4 above.

# MINISTRIES AND THEIR INCUMBENTS IN WESTERN AND EASTERN GERMANY AS OF DECEMBER 1951

	West	East
Chancellor:	Konrad Adenauer (CDU)	(Minister-President) Otto Grotewohl (SED)
		Deputy-Minister-Presidents:
		Walter Ulbricht (SED), Heinrich Rau (SED), Hans Loch (LDP), Otto Nuschke (CDU), Lothar Bolz (NDP)
Foreign Affairs:	Konrad Adenauer (CDU)	Georg Dertinger (CDU)
Interior:	Robert Lehr (CDU)	Karl Steinhoff (SED)
Finance:	Fritz Schaeffer (CSU)	Hans Loch (LDP)
Economics:	Ludwig Erhard (CDU)	
Justice:	Thomas Dehler (FDP)	Max Fechner (SED)
Labor:	Anton Storch (CDU)	Roman Chwalek (Trade Unions)
Food and Agriculture:	Wilhelm Niklas (CSU)	Paul Scholz (Farmers Party)
Transportation:	Hans C. Seeböhm (DP)	Hans Reingruber (non-party)
Post:	Hans Schubert (CDU)	Fritz Burmeister (CDU)
Refugees:	Hans Lukaschek (CDU)	
All-German Questions:	Jakob Kaiser (CDU)	
Marshall-Plan Affairs:	Franz Bluecher (FDP)	
Federal Council Affairs:	Heinrich Hellwege (DP)	
State Security:	----	Wilhelm Zaisser (SED)
Education:	----	Paul Wandel (SED)
Reconstruction:	----	Lothar Bolz (NDP)
Trade and Supply:	----	Karl Hamann (LDP)
Interzonal and Foreign Trade:	----	Georg Handke (SED)
Heavy Industry:	----	Fritz Selbmann (SED)
Machinery Industry:	----	Gerhard Ziller (SED)
Light Industry:	----	Wilhelm Feldmann (NDP)
Health:	----	Luitpold Steidle (CDU)
Chairman of the State Planning Commission:	----	Heinrich Rau (SED)

ministry may have only a hundred or so. They supervise and control the corresponding offices and officials of their administrative branch scattered all over the country. The authority of a ministry reaches down directly to its local agencies in the remotest parts of the country, which are all co-ordinated under the strict line organization characteristic of German administration. There is rarely confusion of authority or jurisdiction. Even "autonomous institutions" under the jurisdiction of a ministry, for instance the federal railways under the Bonn setup, usually enjoy little real autonomy in matters of policy or appointments. An exception has been the traditional autonomy of academic institutions (such as university faculties) in their relation to the education ministries.

Each individual branch of administration is not only strictly organized; it has little relationship to any other. Departmentalization, as in France (p. 348), characterizes German administration, and there is little interdepartmental co-ordination, such as that provided by the Treasury in Britain (p. 141), or in the United States

by the Executive Office of the President, various interdepartmental committees, and, in personnel matters, the Civil Service Commission. The German executive branches form separate, parallel hierarchies, each with its own pattern of organization, rules of appointment, and so on. The monarch, as we have quoted Frederick II as saying, gave "unity" to this system. With the elimination of the monarchy, however, the problem of co-ordination has become as acute in Germany as elsewhere.

## Nationalized Enterprises and Public Planning

### IN WESTERN GERMANY

The scope of general public activities, with publicly owned enterprises, has traditionally been greater in Germany than in Britain or France (not to speak of the United States); but much of this activity is handled on the local level (below, pp. 713-14), and the more recent central planning and administrative activities of Labor Britain and postwar France have

been conspicuously absent in *laissez faire* Western Germany. There are no nationalized enterprises, except the traditional postal and railway administrations, and there is little central planning. German postal administration, as in Britain and France, provides telegraph and telephone services and, in addition, the technical part of radio broadcasting and television, and certain financial services, such as a savings institution. It is organized centrally under its own ministry and with a separate budget and accounting system (now, of course, for Eastern and Western Germany separately). German railways have been public enterprises since Bismarck's times, when the General Staff found it advisable to build up the Prusso-German railway system to facilitate rapid mobilization. Until Weimar the railways were enterprises of the member-states; they were then consolidated under a central Reich Transport Ministry. This was the largest single transport enterprise in the world; at the outbreak of World War II it employed over one million persons and had assets of over 10 billion dollars.

#### IN EASTERN GERMANY

In contrast to "capitalistic" Western Germany, the Eastern "Peoples Democracy" has developed an elaborate machinery for managing the nationalized sector of the economy and for the administration of the Plan. The system is more and more closely patterned on the Soviet model (pp. 507-09, 512-14). As in the Soviet Union, there is a side-by-side of planning authorities, and ministries charged with the implementation of the plan. Since 1950 a State Planning Commission, under the chairmanship of Heinrich Rau, economic boss of Eastern Germany, has operated through ten Main Departments, each in charge of a major field (such as agriculture, transport). After an initial two-year-plan (duly fulfilled *prior to* the official deadline), the first five-year-plan, with ambitious goals (particularly for the creation of a heavy industry in the Zone), began in January 1951. Major planning principles and policies were, of course, worked out by the SED leadership, and the Cabinet charged the planning authorities with working out the details.

Nationalized enterprises were first organized in "associations of people's-owned enterprises,"

but in 1950 the more important enterprises were put separately and directly under the respective ministries. Only the smaller ones remain organized in associations, on the "territorial-productive" principle (for instance, optical industry of Thuringia). They as well as the independent major enterprises are controlled by central ministries, which, as in the Soviet Union, are more and more specialized (for instance, Ministry for Light Industry). *Land* ministries have little control over these affairs any more. Each major enterprise and each association constitutes a separate legal entity, with its separate budget, and is headed by a director appointed by the respective ministry upon nomination by the respective Main Committee of the Planning Commission. The director is responsible for the economic and financial management of the enterprise. The Soviet Corporations (below, p. 736), of course, are entirely outside this "native-German" framework of economic administration. The entire system is devised so as to turn Eastern Germany as rapidly as possible into an integral part of Soviet bloc economy, for which the zone is to become a vital industrial center.

## II. THE GERMAN CIVIL SERVICE: TRADITIONAL FEATURES

Asked for the most significant German contribution to modern government, a student of political institutions will probably answer: its civil service system. Asked to evaluate this contribution, however, the experts are likely to disagree. While some consider it exemplary, a model for other countries, others hold it responsible for the authoritarian trend in Prussian and German history. There is some justification for either valuation. As a matter of fact, this German problem reflects a more general dilemma of modern government—whether it is possible to combine efficiency with democracy. Popular election of officials and rotation in office are means to a democratic civil service, but they also may open the door to "spoils" and incompetence. Career officials selected according to merit standards and appointed by the executive may be efficient, but they may also become a

closed caste of "bureaucrats" impervious to popular control. The American civil service reflects, in the main, the merits and dangers of the first alternative; the German system reflects the second.

### Origins and Developments

The German civil service system is centuries old. Frederick William I of Prussia (pp. 598 f.) first defined in general regulations the status, and especially the duties, of Prussian officials. These regulations concerned such matters as the duty to keep official secrets, leaves, and discipline. Examinations governed appointment to certain categories of office, and to enable candidates to acquire the required knowledge, corresponding professorships were established at state universities. Lower positions in the service were generally filled with ex-soldiers. This system, while regulating recruitment and duties, lacked equally well-defined rights. Many rights existed in practice, but it was the nineteenth century that witnessed their incorporation into the sum-total of rules and regulations that became known as the "well-established (acquired) rights" (*wohlerworbene Rechte*) of civil servants. They include guarantee of life tenure, salary and pension rights, and the privilege to sue the state before ordinary courts in case of financial claims. The Prussian model was imitated by the other German states, so that, although there was no over-all law regulating the service, there was uniform practice. The Weimar Constitution put all of these rights and privileges under constitutional protection. After the Nazi interlude—which politicized the system but did not abolish it (p. 632)—Bonn has reaffirmed it as it was under Weimar.

#### SELECTING OFFICIALS

As happens frequently in the history of social institutions, the Prusso-German civil service system has been improved upon by other countries that started by using it as their model, while in Germany itself the system has largely kept its original, and thus less "progressive" character. The recruitment of personnel, for example, has always been based on expert training and knowledge and, to that extent, on "merit," but it has also largely remained a caste

system under which only the few had access to the service, particularly to its higher ranks. Recruitment has been geared to the educational system (below, pp. 727-28). Graduation from certain schools has been the chief requirement for admission to examinations, and since higher education in Germany has remained largely a class affair, selection for the higher service has been restricted to the sons of the upper classes. Admission to the higher ranks has been hitched to particularly demanding qualifications. The usual entrance requirement has been graduation from law school. Following an examination based on these studies, the prospective official has to undergo at least three years of in-service training with various offices and administrations. A successful second examination makes him eligible for appointment to the higher level of the service (corresponding to the "administrative class" of the British service: p. 152). It can easily be seen that only a lifetime career warrants such extended preparation lasting to the age of twenty-five at best; that only parents of means can give their children such an opportunity; and that, once secured, a position will be anxiously guarded against competition from outside or from the lower ranks.

The service thus became a closed caste, with the largest proportion of officials being sons of officials themselves. Advancement within the service usually required one generation, with the middle-rank officials trying, at great personal sacrifice, to give their sons the education entitling them to enter the higher ranks. While there has been some "social mobility" this way, it has largely been confined to the caste itself. There has been no genuinely *open* competition for office. Promotion, also, has been based on a combination of merit and personal pull and suitability. It paid to know the right people, to belong to the right student corps, to be conservative, Protestant or at least "gentile." Even after 1918 officials resisted democratization as a danger to the expert standards of the service.

#### STATUS OF OFFICIALS

In return for the long and expensive training, the service has provided the German official with "security" and status. Salaries even in good times have been relatively modest, but they have been balanced by economic as well as

social privileges. The official has lifetime tenure. He cannot be dismissed except for "cause," and even when charged with a violation of duty which, legally, renders him dismissable, he can be dismissed only upon judicial verdict in a quasi-legal procedure. The same system of "disciplinary jurisdiction" applies to any case in which an official is charged with neglect of duty that may lead to serious penalty, such as demotion or reduction of salary. Detailed regulations define procedures before special disciplinary courts, whose members are the accused's peers. There is thus full guarantee against arbitrariness. Outside of dismissal for cause there is no way to remove even obnoxious officials. A politically "objectionable" official, for instance, would not be promoted; he might be transferred to another office at equal rank and salary, but he could not be dismissed even if he affiliated with "state-hostile" parties. "State-hostile" persons hardly ever infiltrated the service in monarchical times, but there were occasional Communists and, more frequently, National Socialists in Weimar times. Germans were, in this instance, liberal enough to believe that an official who did not violate his official duties for political aims should not be deprived of his right, as citizen, to join any party. This was particularly important for the civil servants employed in the public enterprises (postal, railways), who, far removed from "sensitive" *official* activities, actually performed the same functions as employees or workers in private enterprises. However, under occupation influence, the Bonn government passed legislation which declares membership in certain organizations (most of them Communist) incompatible with official status. This legislation has encountered opposition not only from the political Left but also from civil service circles anxious to guard their long-established privileges.

These privileges, in addition to salary and life tenure, comprise an elaborate system of pensions. The official, usually retired at the age of sixty-five, receives a generous retirement pension (up to 80 per cent of his salary); and there are pensions for his widow and for surviving minor children. He is retired on pension also in case of invalidism, and he is entitled to leave with pay during temporary illness. His salary is increased if he has minor children.

Since the service in Germany comprises such large groups as teachers and postal and railway officials, a large proportion of the German people has security from the cradle beyond the grave; on the other hand the state is burdened with a tremendous financial obligation.

Another privilege is the state's assumption of responsibility when damage is caused to an individual by a civil servant acting in his official capacity. To make the state liable protects not only the official (against whom, in case of major neglect, the state may take redress) but also the damaged citizen. The civil servant himself, as we have stated, may sue the state before the ordinary courts for his own pecuniary claims.

As highly cherished as these material benefits are the ones concerning official status and prestige. They derive above all from an elaborate system of ranks and titles with which the service is endowed. The minute and to a foreigner often ridiculous distinctions and refinements form the basis not only of job classifications but also of the social standing of the official, his family, and the entire caste. Thus titles may never be omitted in talking to an official—not only when a nonofficial addresses an official, but also among the officials themselves, and here not only when a lower one talks to the higher one but also among colleagues of equal rank or when the higher official talks to his subordinate. It is never, as in America, "Ed" and "Joe," not even, as in Britain or France, "Mister" or "Monsieur," but "Herr Rat" (Councillor), or "Herr Oberfinanzsecretär." His title appears on his letterhead, is customarily extended to his wife ("Frau Rat," which means that not the lady but her husband is a "councillor"), and is surely not omitted from his obituary. Such titles are imitated in occupations outside the bureaucracy (for instance, in the professions, or among employees of larger private enterprises); they, and the prestige they involve, form the backbone of German social stratification.

#### POLITICAL AND PROFESSIONAL RIGHTS

With regard to professional and political rights and activities, the German system may be said, formally, to be about midway between the severely limited Anglo-American type, and

the unlimited French. But to judge the implications of this statement, one has to keep in mind the peculiar caste character and conservative-authoritarian background of the German service. Thus, right of professional association, in Germany, would not mean formation of groups affiliated with other workers organizations and, together with them, opposed to the state as employer. While since 1918 German officials have been free to join any professional association, they have by and large shunned affiliation with general trade unions and kept apart from "ordinary" workers and employees by forming separate interest organizations of their own. In contrast to many groups of French officialdom (for instance, teachers), even lower-rank officials in Germany have no feeling of "class solidarity" with workers and insist on their special status. Under the Weimar regime, membership of civil service associations affiliated with the Free Trade Unions declined from about 400,000 early in the twenties to less than 200,000 in 1930; while in that year the "neutral," in reality nationalist-conservative, associations had over one million members. The situation is similar today, with few officials (mainly in the more technical services, such as railways) affiliated with the general trade unions. The neutral associations lobby against any infraction of the traditional privileges of their members. The right of officials to strike against the government has never been conceded, and is rarely claimed.

As far as settlement of individual grievances is concerned, committees set up in the individual government agencies which might be compared to the British Whitley Councils (p. 156) have never played a significant role in Germany. There were some in the Weimar period with purely advisory functions, but the draft of an over-all federal law concerning them never came into force. How, then, are such grievances settled? If it is a matter concerning whole groups of officials, for instance, concerning salaries or work conditions, the associations are in charge. If it is a matter of concern to one single official only, he will have to take it up with his superior officer, and the matter is then likely to be handled under the set regulations concerning the service. Here, as elsewhere, the German prefers settling a problem by applying

and interpreting established rules of law to "getting together and talking it over."

Although the German official is likely to profess to be "above parties," he may belong to any party and even engage in political activities. Because of this, the British and American occupants of Western Germany, with their own ideal of an unpolitical civil service, have tried hard to impose on Germans a system under which an official is not permitted to engage in political activities and, in particular, must resign from office if he wants to run for elective office. This policy was blind to the fact that party-political activity of German officials is a sign of democratic rather than authoritarian attitude. Strongly conservative officials did not usually enter politics, although some were elected to diets before 1918. Since Weimar it has rather been the progressive civil servant who has engaged in party life and been elected to assemblies. (See table on p. 685, showing that the large majority of officials elected to assemblies have been "party-appointed" rather than ordinary career officials.) The proposed "depolitization" of the service would primarily hit parties like the Social Democrats, because so many of their best men get themselves appointed to the civil service and would thus become unavailable for elected office; the middle-class parties usually have enough able spokesmen among the professions and occupations outside the service. So far, Germans have managed to get around Allied requirements by allowing an official to run for election and, if elected, to resign with the right to be reinstated after expiration of his term.

### *How Satisfactory Is the German Civil Service?*

The difference between the German and a Western civil service system may be illustrated by contrasting the German "official" with his American counterpart, the "government employee." The American comes and goes; the German is there for life. He is not likely to be "on loan" from some business firm or other agency, or a "dollar-a-year-man," or a "consultant." Where the American will settle a matter informally, the German will insist on protocol and formalities; but in the end one gets

a clear decision. An American agency chief has to spend half his time justifying the agency to the public and to appropriations committees; German agencies labor (or thrive) under the opposite shortcoming of being practically unabolishable, and some continue long after their real functions have vanished. American offices must function under the glaring, though intermittent and erratic light of publicity and investigation; German offices are protected from political interruptions but also from healthful criticism. The American government worker's job and salary are always under the threat of the Congressional "meat-ax"; the German's is more secure than any business executive's. The American works at his government job as at any other "job," loyally but without special devotion; the German feels that his service is an honor involving special duties and a fealty originally owed to the king and now to that mystical higher entity, the State.

The German civil service has often been called too "authoritarian." But every bureaucracy in a modern state must be based on hierarchical organization and discipline which guarantee efficient carrying out of directives from the top level. In Germany the advantages of such civil service have been a sense of duty, industriousness, and, by and large, expert knowledge and probity. But the obnoxious features of both authoritarianism and bureaucratism have been equally present. "Sense of duty," far from being interpreted as "duty to the people," least of all, to political parties or people's representatives, has meant unquestioned duty to the "State," that is, a strong central executive authority which could do no wrong. The service has been impartial to individuals but less so in regard to classes and general issues. Officialdom has consciously or unconsciously favored the upper classes from which most of its members have been drawn. Morally, the tradition of unquestioning fulfillment of duties in the service of the "State" proved disastrous. While such an attitude may be a virtue in countries with stable and largely uncontested value systems (such as Britain and the United States), it implies either hidden partiality for one group and one particular philosophy or

readiness to serve with equal zeal any master where (as on the Continent) no such common value standards exist. It may then entail lending one's services to the execution of any, even the most atrocious, policy. The German service could be relied upon to put into practice with equal effectiveness a lofty program of social welfare and the program of "liquidating" Jews. It has been authoritarian when left alone; resistant when under democratic direction; and conforming when under the direction of a forceful though untraditional ruling group like the Nazis.

As a bureaucracy the Prusso-German officialdom has lacked initiative and a sense of individual responsibility. "Centralization and militarization became the predominant characteristics of the Prussian civil service. Forms predominated over purpose; command over the substance of commands; hierarchy over collegialship; discipline over free creation; routine over local and personal invention."<sup>2</sup> Their predominantly legal training, in particular, produced officials "more useful in a static than a dynamic state; excellent interpreters of the past but not inventors of the ways and means of the future; apter to explain than to evaluate; and inflexible in the power to make exceptions."<sup>3</sup> Their training became too bookish and too long, their career too specialized, their attitude too compartmentalized. It was to such office, and not, as in England, to politics and Parliament that the German elite was attracted, and naturally a more authoritarian-minded and less independent and self-reliant type of man prevailed. "Civil courage" was lacking, within the service as well as in the people's attitude toward officialdom. Within and outside, the system created submissiveness, servility, and a stifling of free initiative.

### III. CIVIL SERVICE REFORM

A crucial question facing the Allies in 1945 and the Germans thereafter has been what to

<sup>2</sup> Herman Finer: *Theory and Practice of Modern Government* (Revised edition, New York, 1949), p. 728.

<sup>3</sup> *Ibid.*, p. 802.



do about a service discredited by its authoritarianism and its collaboration with Nazism but apparently the only group with expert knowledge of the technical aspects of government and administration. In view of what the Nazis had done to the civil service (above, p. 632) the problem was twofold: One, of more recent origin, was what to do about those—probably a minority—who had penetrated the service as active and convinced Nazis. Dealing with this problem was part (and even the chief part) of “denazification,” a program whose failure has been outlined above (pp. 646 ff.). The second problem was the general one of “democratizing” German bureaucracy. Germans, over the centuries, have come to believe that the traditional caste system of their bureaucracy is the only type which guarantees an uncorrupt, efficient, and impartial service. Grumble as they often do about red tape and the fatuity, exclusiveness, and snobbishness of officials, they still hold to this belief and want to live under a system which allows them to “escape from freedom” and evade initiative and responsibilities as a man would take to a drug, whose danger he may realize without being able to dispense with it. Accordingly, truly democratic reform cannot be sudden; it can only be a long process of instilling a new spirit into the old institution. In particular, it must be realized that the traditional and cherished “acquired rights” of German officials render difficult any large-scale program of new appointments.

### ***In Eastern Germany: Abolition of Officialdom***

In Eastern Germany civil service has been “reformed” out of existence. In order to do away with officialdom as a caste the new regime decreed that henceforth public office should no longer be differentiated from any ordinary job or employment. This meant the abolition of the system of acquired rights and privileges of officials: of guarantees of lifetime service, of a special pensions system, and so forth. Instead, all public officials have now the same status as workers and employees, with terminable em-

ployment contracts, under one and the same social security system, affiliated with the same trade unions. Politically, of course, they are “co-ordinated.” In order to replace those, particularly in the higher ranks, who had fled or were purged, rapid training courses were set up for candidates selected chiefly according to social origin (workers, peasants, or sons of such) and political “progressivism.”

### ***In Western Germany: Persistence of the Old Pattern***

In Western Germany the greatest handicap to genuine civil service reform has been the failure of denazification. After a brief intermission during which new or old democrats were substituted for dismissed or suspended officials, the civil service is again staffed primarily with the old-type authoritarian, nationalist, Rightist-conservative, if not Nazi, officials. Since the “denazified” former officials could reclaim their positions by right, a chance to make a large number of positions available to new and more democratically minded office-holders has thus been missed. In the face of this situation occupation authorities have tried hard, and so far futilely, to convince Germans of the merit of reform measures designed to provide broader and more equal access to the service; to break down the traditional distinction between the academically—especially legally—trained officials, who alone have access to the “higher service,” and the others; and to stimulate a spirit of independence and initiative within the service as well as among Germans in general in their dealings with, and attitudes toward, authorities.

### **ALLIED SUGGESTIONS**

To achieve these aims the Western Allies suggested open competitions for all vacancies; legal training to be required only for positions of strictly juristic character; special examinations to enable non-academically trained lower officials to be promoted to the higher service; more qualified persons with outside experience to be called into the service; the conferring of “official’s” status upon all “employees” in the pub-

lic service who actually perform public tasks; and the establishment of personnel offices which, in the place of the chiefs of the different administrations, would have the power to pass on appointments and promotions, issue regulations on entrance requirements, training, examinations, and to serve as appeal authority in cases of discharge for inefficiency and in similar cases. In short, to introduce into Germany approximately the United States civil service system.

#### GERMAN PROCRASTINATION

The fate of these suggestions is a prime illustration of the difficulty of transplanting institutions from one country to another with fundamentally dissimilar traditions. At first the German authorities refused altogether to enact the desired reform measures; thereupon Military Government, early in 1949, issued a law of its own, applicable to the then existing bizonal administrations, which it hoped would be accepted subsequently as the new civil service law by the Federal Republic. Instead, early in 1950, a provisional federal law put into effect the Reich civil service law passed under the Nazis in 1937, with certain amendments which made out-and-out Nazi features inapplicable, to be sure, but which in all other respects continued the traditional system of the German service with all its "acquired rights." The Allied High Commission at first vetoed this law, but withdrew its veto upon German promises to take into consideration Allied objections when enacting the definitive civil service law which was to replace the provisional one in 1951. By the end of 1951 the definitive law had not been produced.

In the meantime some lip-service has been paid to reform; for example, a Federal Personnel Office, providing for "open competitions" for vacancies, has been established. But the Office has no power over individual appointments and may merely issue general regulations. Moreover, it is composed of high officials who can be assumed to act in the spirit of German officialdom rather than to afford protection against its traditional shortcomings. Experience with personnel offices in some of the *Länder* has shown that, instead of democratizing and

liberalizing the service, such offices have in reality served to offset the "party-political" and often democratic influence of ministries in favor of the traditional "unpolitical," that is, conservative, influence of the higher officialdom. Similarly, when some of the *Länder* extended the status of "officials" to some categories of public employees, this merely meant the extension of the traditional status of the German official to a larger group. "Open" competition for vacancies has proved devoid of meaning because of the strict educational and training qualifications which are required. From all this one may infer that Germans, "upper" and "lower" alike, prefer the present system if a more democratic one can be had only at the price of efficiency; they are disinclined to sacrifice efficiency for democratization. The problem thus is whether it will be possible to *combine* efficiency and training with democratization. Civil service reform in Germany will have no real chance as long as higher training and education, which alone opens the path to higher positions in the service, remains the monopoly of the upper classes. Extending higher education to qualified students from all social strata, on the other hand, would be the first step toward the reform of the service, a German version of the merit system, the "career open to talent." But educational reform of this sort has run into great difficulties (see below, pp. 728-30).

In an age when the tasks of government are becoming ever broader and ever more complicated, it would be futile to expect that the role which the Executive plays will diminish, particularly in a country like Germany where it always has loomed so large. This does not imply, however, that the bureaucracy will have to become ever more independent and "high-handed." Where, as in Eastern Germany, political control is concentrated in a group which mans the key executive points, the bureaucracy will remain subordinate to that group, although under it, it will occupy an important place in the rulership over a manipulated society. In a framework of government and society such as exists in Western Germany, on the other hand, the role of the bureaucracy is not so foreordained. It might become ruler (under a weak Executive and an ineffectual system of political

parties and similar popular forces); or it might become, or remain, servant of a strong and purposeful Executive with a will and a program of its own. In either event it would not deviate much from its traditional role of serving authoritarian tendencies and countering popular trends and forces. Lastly, however, it might become a "civil service" in the sense of a bureauc-

racy responsible to the people and serving popular causes and interests as the spearhead of reform even against vested interests. This role, which the American service has frequently played and which the British service has not shunned, only a radically transformed German bureaucracy is likely to fulfill. At present, all odds seem to be against such possibility.

## CHAPTER 7

# State and Local Government in Germany

### I. INTRODUCTION

France, as has been already noted (p. 366), is "a republic at the top" but "an empire at the base." Germany, one might say, has been an "empire" at the top, with some democracy at the base. The German tendency toward an authoritarian centralism has been tempered by some dispersion of power, a degree of self-government in regions and local units. It is true that such decentralization in itself is no guarantee against authoritarian rule. Authoritarianism may prevail—and in German history has prevailed—in regional and small units of government as in large ones. It was one of the errors of the Potsdam program to assume that "decentralization" by itself would cause "democratization." In Germany, regional (state) units often were strongholds of reaction, or they formed (as Bavaria did for the Nazis in the early Weimar period) vantage points for totalitarian movements, while more progressive movements and policies were frequently national.<sup>1</sup> Yet whatever tradition of democratic self-government there was in Germany developed in local units (cities), at a time when most other government was authoritarian. Thus it depends entirely on the individual circumstances whether favoring regionalism or localism in Germany is "progressive" or not.

It must be understood that German regional and local units are not only "self-governing" but also agents for higher authority. A mayor, for

instance, is both a local and state official. Such a system facilitates administration by avoiding overlapping between administrations, but it complicates the problem of autonomy. The state, for example, must retain some share in the power of appointment whenever a local official simultaneously performs state and local functions. In the relation between central (federal) and state (*Land*) government there has been a similar close connection, with *Land* agencies in charge of executing uniform central laws. This meant that central government had to have certain powers to supervise the execution of its laws by the states, and this has even meant granting the federal government powers of coercion against the states. To an American who thinks of states as "sovereign," such a system will seem a far cry from genuine federalism. Still, there is a good deal to distinguish it from outright centralism, like that enforced on the *Länder* (and lower units) during the Nazi period (above, pp. 631-32).

### II. PROBLEMS OF STATE GOVERNMENT

Both present-day German Republics are theoretically federal. This merely reflects the long history of German disunity. Its legacy, on the one hand, has been a reactionary "particularism" (above, p. 578), under which vested regional interests, such as state bureaucracies, clung to the prerogatives of their units to protect their own interests. On the other hand it has meant an endearing variety of cultural life. Instead of one Paris or one London, Germany has had a multitude of regional centers, which

<sup>1</sup> In the following the terms "central" and "national" refer to the highest, "federal" level of German government, the term "regional" refers to that of "state" government, that is, the government of German member-states or *Länder*, and "local" to the governmental units at the bottom (municipalities, and so forth).

were often monarchical residences. To this cultural variety the German is sincerely attached. Something, he feels, would be lost if it should give way to the uniformity which is so predominant anyway in modern civilization.

### **Territorial Reorganization**

But while regionalism in Germany has had a real basis in popular sentiment, actual political units by the nineteenth century had largely ceased to coincide with cultural and traditional

### **Centralism versus States-Rights**

However, it is not only the territorial structure of the *Länder* which must be viewed as provisional. The distribution of powers between central and regional governments is likewise precarious. The division of jurisdiction between them has been one of the major problems of German federalism. In the Hohenzollern Empire, power was still mostly with the member-states (above, p. 605). In the Weimar Republic there was a strong trend toward centralization

### **GOVERNMENTAL SUBDIVISIONS IN THE GERMAN FEDERAL REPUBLIC**

Levels of Government	Units of Government	Organs
Central (Federal)	Western Germany	Fed. President, Fed. Chancellor, Fed. Ministers, Fed. Diet, Fed. Council
Regional (State)	<i>Länder</i>	Min. President, ministers, diet
Intermediary (only in some larger states)	Government District	District President
Local	City county, rural county	Landrat or mayor, councils (variations in different regions)
	Municipality (city, town, village; in some areas also Amt)	Councils, mayor, etc. (variations in different regions)

regions. Prussia, in particular, had become a unit superimposed upon genuine regions and, owing to its size and population, constituted the major obstacle to a more rational regional organization of Germany. With the elimination of Prussia as a unit the postwar territorial structure of Germany might have become a rational one if it had not been for a new difficulty. After World War II the *Länder* emerged very shortly after the Allies, in their different zones, started to revive German government, and thus regional organization had to follow zonal boundaries. But the zones had been carved out of German territory with supreme disregard of traditional regions and boundaries. This was especially true in the South and West, where the French zone was belatedly established out of American and British zonal territory. Thus the present regional structure must in part be viewed as provisional.<sup>2</sup>

<sup>2</sup> Into 1951 the Western German territorial picture was this. Of the previously existing *Länder* only Bavaria (9.1; Munich.—Figures in parentheses indicate population in millions, and names of cities the *Land* capitals) and the two city-states of Hamburg (1.6) and Bremen (0.6) coincided with previous units. The Prussian provinces in the area were made *Länder*, namely: Schleswig-Holstein (2.6; Kiel), comprising the former province, and former city-state Lübeck; Lower Saxony (6.8; Hanover), comprising

(p. 613), and this trend was driven to the absurd length of totalitarian centralism under the Nazis (p. 631). After the downfall of Nazism there was, understandably enough, a "particu-

former province Hanover, and former *Länder* Braunschweig, Oldenburg, and Schaumburg-Lippe; Northrhine-Westphalia, formed out of former province Westphalia and the northern, industrially most important, part of former Rhine Province, and also former *Land* Lippe; this unit comprises the Ruhr area (13.1; Düsseldorf); and Hesse, comprising former province Hesse-Nassau and the larger portion of former *Land* Hesse (4.3; Wiesbaden). The remaining units were entirely new: Rhine-Palatinate, a merger, in the French zone, of the southern portion of former Rhine Province with some portions of Hesse and with the formerly Bavarian Palatinate (3.0; Mainz); Würtemberg-Baden (3.9; Stuttgart) resulted from the zonal dissection of the former *Länder* Würtemberg and Baden into northern (U.S.-occupied) and southern (French-occupied) halves, and the subsequent merger of the two northern parts. This left two unmerged southern portions, Baden (1.3; Freiburg) and Würtemberg-Hohenzollern (1.2; Tübingen). The problem of their consolidation led to two plebiscites in the area, the second of which, on December 9, 1951, resulted in a majority for the formation of a new Southwest State, into which the three *Länder* Würtemberg-Baden, Baden, and Würtemberg-Hohenzollern were united (6.4; Stuttgart). Thus there are now nine, instead of the previous 11, Western German *Länder*.

In Eastern Germany the absence of zonal boundaries made territorial reorganization easier. There are five *Länder*: Three former *Länder* and two former Prussian provinces, all, with slight changes, corresponding to the previous units: Saxony (5.6; Dresden); Sachsen-Anhalt (4.2; Halle); Thuringia (2.9; Weimar); Brandenburg (2.5; Potsdam); and Mecklenburg (2.1; Schwerin).

larist" reaction, in the belief (a mistaken one, as the history of Weimar might have shown) that strengthened *Land* powers would form a check against future resurgence of totalitarian tendencies. Coupled with a similar Allied (particularly French) belief that decentralized German government would provide protection against future German aggression, this led to a postwar policy in favor of "states-rights." But economic and political forces have proved stronger than wishes and theories. International developments have compelled the Powers to make "their" respective Germanies ever more centralistic. Furthermore, in Germany as in every modern society fundamental economic and social problems tend to become national problems which call for solution on a nation-wide basis, particularly where, as in Germany, parties, trade unions, industrial associations, and other groups interested in their solution are nation-wide rather than regional, and where impoverishment and losses caused by two world wars urgently require a pooling of national strength.

To this tendency there has to be added in Eastern Germany the centralizing influence of political totalitarianism. Despite their continued existence, therefore, the *Länder* in Eastern Germany have largely nominal functions; political direction comes from the central level where almost everything is minutely planned. In the Federal Republic, the Bonn Constitution, theoretically, gives the *Länder* strong powers of legislation (as long as the federal government does not exercise its "concurrent jurisdiction") and administration in many fields, such as interior and police, justice, and education. But the *Länder* have so far made little use of their power to legislate, especially about such economic and social matters as labor or the nationalization of industries. *Land* legislation often merely carries out federal legislation, and even in fields reserved to the *Länder*, legislation is often substantially the same in the different units—another sign of the dwindling importance of regionalism. As to administration, the financial viability of the regional units has been the crucial problem of German federalism since Weimar times. Realizing that it had been the pre-emption of the major sources of revenue by the central government which had been the

chief cause of the precarious status of the *Länder* under Weimar, the framers of the Bonn Constitution sought to guarantee the *Länder* a stronger position in this respect. Income and corporation taxes, for instance, are in principle reserved to them. But the federal government has the right (with consent of the Federal Council, to be sure) to lay claim to part of these taxes, and since it has assumed the large expenses arising from war and occupation it has already been compelled to do so (for instance, one-third of these taxes for budget year 1951). Also, the federal government may claim part of these resources in order to grant subsidies to financially weaker *Länder*, if this is necessary to enable them to fulfill their own functions. The fact that the *Länder* thus administer taxes which in part flow to the central government or to other *Länder* has already led to considerable trouble where certain *Land* finance authorities have been "lenient" in levying and collecting taxes at the expense of other *Länder* which have to make up for losses thus caused. Developments seem to drive relentlessly in the direction of centralism, in this case, the establishment of central finance offices to the exclusion of the *Länder*.

### *Länder Viability*

All these problems of detail are connected with the problem of the economic viability of the present states. The growing trend toward centralism can be checked (if at all) only by a more rational territorial organization of the present regional units. It has already become apparent that some of the new units, particularly those heavily burdened with refugees (for instance, Schleswig-Holstein) and economically "backward," are not viable without continued subsidies. In order to avoid too much federal "intrusion," these subsidies are in part now granted by the financially stronger *Länder* themselves. But consolidation of the present *Länder* into five or six units, more equal in size, population, and economic strength, might be the best solution. To this solution the merger of the three southwestern units points the way (above, p. 709, footnote). In addition, a northern unit, consisting of Schleswig-Holstein, Lower Saxony, and the two city-states, and a

central unit, formed of Hesse and Rhine-Palatinate, might be established.<sup>3</sup> These *Länder* would then have to resign themselves to the administration of federal laws and programs, and to the autonomous control of educational, cultural, religious, and interior problems. This would preserve the diversity which is particularly cherished by Germans. Even so, some federal co-ordination may be necessary; for example, over the school systems in the different *Länder*, whose variety creates difficulties each time a German family moves from one *Land* to another.<sup>4</sup>

### Internal Land Organization

The *Länder* in Western Germany have more control over their internal organization than they had under Weimar. They are free to adopt their own state election systems, and their constitutions vary from undiluted parliamentarism (usually in the states controlled by Social Democrats, such as Hesse) to the system of cabinet irremovability (in Catholic-conservative Bavaria). Issues such as socialization of key industries and church influence over education have also frequently been threshed out in the different *Land* constitutions. Since the *Länder* in the American and French zones adopted their constitutions prior to 1949, they have a problem of adapting them to the federal constitution, especially with regard to fundamental rights, of which some of them have generous catalogues. The states of the British zone are now in the process of adopting constitutions. All but the Bavarian (which has a consultative "Senate") are unicameral. The *Land* executive usually includes the following departments: interior, justice, finance, economics, agriculture and food, education and culture, labor and welfare. Occasionally there are departments for housing, reconstruction, and refugee affairs. Generally speaking, the federal ministries are mainly con-

cerned with the preparation of laws, and the corresponding state ministries with the administration and execution of laws. The larger *Länder* also have so-called "intermediary authorities," agencies between the level of state government (ministries) and local administration. In Prussia there had been two levels of such "intermediary" administration, provinces and districts. Today only the districts (*Regierungsbezirke*) remain, and some *Länder* (like Hesse) are considering abolishing them. They are headed by state-appointed and state-directed "District Presidents," who, under the ministries, are in charge of certain police affairs, supervision of local government, secondary education, highways, and highway transportation. The District is not a unit for self-government. Below it, however, local government units are simultaneously units of self-government and of administration of state functions.

### III. PROBLEMS OF LOCAL GOVERNMENT

German local, especially city, government has generally been both popular and efficient. But it has not escaped the centralist tendencies which complicate the tasks of self-government in other modern countries (see pp. 163, 366).

#### Units of Local Government

German local government, like the British and unlike the uniform French, is a bewildering maze. (See charts of government levels and units, and of *Land* and county subdivisions.) The basic local government unit is the *Kreis* (county; literally "circle"). Larger cities (without, however, any strict delimitation) are known as "city counties," which means that county and municipal governments are identical. Rural and small-town areas are "rural counties" (*Landkreise*, the word "Land" here referring to "countryside," not to "state"), traditionally headed by an official called *Landrat*. This may be compared to the British distinction between county boroughs and administrative counties (p. 166). But in contrast to Britain there are within German rural counties no non-

<sup>3</sup> In autumn 1951, a bill for the reorganization of the *Länder* was in preparation.

<sup>4</sup> The extent to which German federalism has become an artificial issue is illustrated by two facts: One, policies and votes in the federal organ intended to represent the interests of the *Länder* are rarely over "states-rights" (above, p. 691); the other, federal finance minister Fritz Schaeffer, a leader of the "particularist" Bavarian CSU, is one of the champions of central (federal) prerogatives.

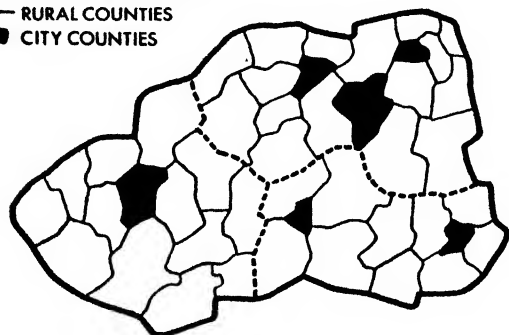


county boroughs with special status but only individual municipalities, either smaller towns or cities, or villages. There are no "areas" like the British urban or rural districts. The average German *Landkreise* are smaller than the British administrative counties, not to mention the large American counties. This makes it more difficult for them to discharge tasks which today require large-scale planning and financing. In Germany, therefore, a good many such functions are entrusted to "special authorities" of

took root in Germany. At the beginning of the nineteenth century Germany's liberal nobleman, Freiherr von Stein, remembering the medieval freedoms of German cities, thought through self-government in the cities to teach the rising German middle classes to govern themselves in what he hoped would be a democratic nation of their own. This hope was not fulfilled nationally, but in the cities self-government began to flourish when state government was still authoritarian. Municipal self-government was representative

### TYPICAL LAND SUBDIVISION

- LAND BOUNDARY
- - - DISTRICT BOUNDARY
- RURAL COUNTIES
- CITY COUNTIES



the state, which, under the supervision of the respective ministries and separate from county administration proper, function in the counties. In Britain these special functions are often performed by joint boards (p. 167) rather than by such centrally supervised and directed authorities.

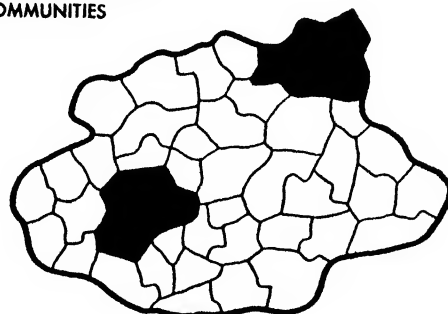
In certain areas of Germany, especially in the West, several villages or towns are combined in units intermediary between the local government and the county. These so-called *Amter* are better equipped to take charge of certain local affairs. But this does not hold for the majority of German regions and communities. There self-government is still based on the village, which increases naturalness and local color but renders more difficult the discharge of all but very elementary responsibilities.

### Development of Local Self-Government

It is in these units, and especially in the cities, that the idea and practice of self-government

### TYPICAL COUNTY LINES

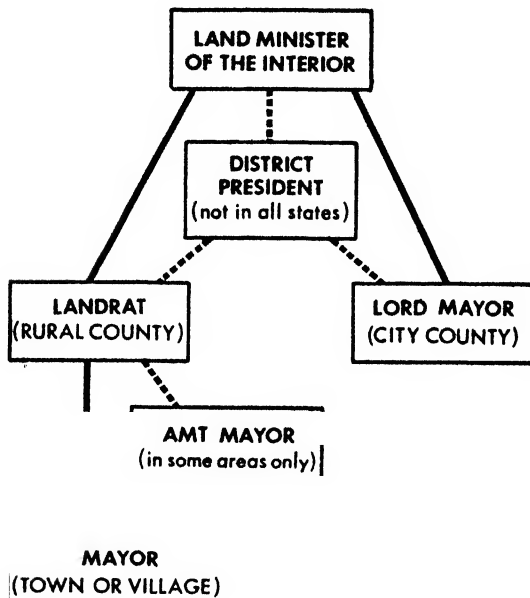
- RURAL COUNTY
- CITY COUNTY
- TOWN OR VILLAGE COMMUNITIES



and autonomous. In both respects it was not unrestricted. Autonomy was "supervised" (see below), and representative institutions, until 1918, did not mean "democratic" government. Because of restricted suffrage in the municipal elections it was the old or new city "patricians" who governed. But this did give them administrative experience, which they could not get on higher levels and which they could pass on to the "lower" classes when municipal government became genuinely democratic. The overlapping of state and local authority is also a part of this picture. Police affairs, for instance, are handled by local authorities, such as mayors, in the name of the state, and the state has generally reserved the right to confirm appointments. Consequently there has developed a system of collaboration between officials and citizens that is beneficial to both. Officials taught expertness and stability, and they learned how to share government with real citizens and conduct themselves as "responsible" civil servants. Citizens learned the business of self-government in the numerous

"administrative committees" ("deputations") that were established to help administer schools, hospitals, and other civic affairs. The state, while not having a right of direction, reserved powers of "supervision" which were exercised in rural areas by the *Landrat*, and in city counties by the District President or the Interior Minister.

### AUTHORITIES AND LINES OF LOCAL GOVERNMENT SUPERVISION



Supervision ranged from "objection" to measures of compulsion, such as dissolution of elected councils or commissioning of "acting" mayors. Actually the state used these powers sparingly.

### Range of Local Activities

An American might marvel at the wide range of activities in which German cities have for a long time engaged: Economic and welfare services, public utilities, streetcars and busses, harbors, markets, slaughterhouses, pawnshops, swimming pools, parks, hospitals, housing developments, libraries, municipal theaters and opera houses, orchestras and concert halls, museums and art galleries, art schools, and, sometimes, universities. The one permanent opera

house in the United States finds itself in perpetual financial straits; performances of *Die Meistersinger* or *The Magic Flute* were given in the ruins of German cities in winter 1945-46. Many German municipalities have pioneered in city planning and public housing. It is true that there have been some scandals, particularly in the twenties, when the easy flow of foreign loans tempted cities to build parks and sport arenas on too lavish a scale, and to engage in speculative business enterprises like mining. The result was bankruptcy and state intervention in the early thirties. But "spoils" and graft have been small compared to that in many American cities.

More serious has been the trend toward the state (federal or *Land* government) burdening the municipalities with so many "mandatory" tasks that less and less remains to local initiative. Fields like social welfare and housing have increasingly come under federal or state jurisdiction.<sup>5</sup> With the increase in mandatory functions cities are compelled to rely on percentages of federal or *Land* taxes turned over to them, and the scramble for revenue among three levels of government has been continuous. It is true that municipalities and counties have had their own sources of income, such as taxes on real estate and business establishments, but with the developing tendency to over-exploit the available sources of taxation local units frequently have had to be restricted by law from over-exploiting theirs. In these straits, income from municipal enterprises developed into one of the more important sources of income for local government.

### MUNICIPAL ENTERPRISES

Municipal enterprises in Germany are organized in different ways: directly under a municipal department; indirectly as a separate public institution with its own boards and budget; or as a private corporation under municipal or public-private ownership. It has been local government, *in addition to* state government, that made Germany a welfare-state; it has been local government *rather than* the state that has pro-

<sup>5</sup> The budget of a big Western German city for 1949, for instance, on the expenditure side assigned 20 per cent for welfare, 15 to housing, 14 to public enterprises, 10 each for police, schools, and general administration, and only 7 for autonomous activities as cultural institutions.

moted public management of economic affairs in Germany. The cities have furnished most of the gas, water, and power supply for the German population, and most of the local transportation. According to 1930 figures 10-30 per cent of the city areas were owned by the city, used in part for public buildings and parks, and in part for development of low-cost housing; of thirty-five large Rhine river ports twenty-one were owned by cities. There were over 12,000 municipal enterprises, with close to half a million employees, yielding a net income of half a billion *Reichsmark*. In rural areas, the counties engaged in similar activities. From this one may gauge the importance of recent happenings in Eastern Germany, where municipal enterprises, including utilities, have been, or are being, "nationalized" in the peculiar sense of being transferred from municipal to central state ownership and management. This deprives the cities of important sources of income and their most important sphere of initiative, and renders them and the citizen dependent on central government. This development, it is true, seems to be common not only to the Soviet sphere but also to Britain (p. 133), and reflects the general trend toward centralization.

### *Organs and Staff of Local Administration*

The charters of local government in Germany have always been distinguished by their variety. Somewhat similar to America, and in contrast to the uniform systems of Britain and France, the individual states, through "municipal government acts" (and sometimes, as in the case of Prussia, individual regions within states), developed their distinct systems. Common to all of them, however, has been the close relationship between an elected council and the mayor (or mayor plus executive associates, a body called *Magistrat*). This system has taught the heads of local administration to blend political responsibility with executive power—something never learned by Germans on the state or national level. This feature of German local government has distinguished it from the British system with its all-powerful council and its unpolitical executive staff, the French system with its party-political, short-time mayor, and the American system with its separation-of-power

structure modeled on state and federal government and its popularly elected mayors and party patronage. In Germany, the mayor is usually elected by the council but for a term exceeding that of the council (usually twelve years), and, although party affiliation plays a role, from among trained and qualified experts. Even where the mayor is elected by the people (as in the exceptional case of Württemberg cities), his office is long-term, and he is an expert who may come from outside the municipality. He is actually a professional civil servant, and with his long-term appointment, is in a position to build up a staff of professional municipal officials to assist him.

### MUNICIPAL CIVIL SERVICE

Municipal officials resemble other public officials. They go through the same training and preparation for a career service, are divided into the same categories of higher, middle, and lower, enjoy the same privileges and "acquired rights," and are paid on comparable salary scales. They share with state officials status as a group apart from the general public, but there is not much interchange between them and other public officials, and the somewhat freer atmosphere of local government makes them somewhat less authoritarian and exclusive. There is, on the other hand, a good deal of interchange among civil servants of different municipalities. Since the individual units of local government have to select their staff from a restricted group, there is more genuine competition for jobs here than in the state service. Competitive hiring, to be sure, has frequently also meant selection on the basis of political affiliation, religious denomination, and similar criteria, but this has not usually overridden knowledge and training.

### LOCAL GOVERNMENT SYSTEMS

Such expert and, to some extent, responsible civil service has been a common feature of German local government systems. Where they have differed mainly is in regard to the powers of the mayor, his relation to his associates, and his and his associates' relation to the council. Under the "mayoralty system" in the Rhineland and elsewhere, department heads, although appointed for long terms, were subordinated to the mayor, who presided over council meetings and had a

share in council resolutions. Under another system, formerly prevailing in many Prussian provinces, all important powers (lawmaking, policy formation, appointments, and so on) were with two bodies which had to act concurrently: the elected council, *and* a *Magistrat* composed of paid, professional, long-term officers (among them the mayor) and unpaid lay members, all elected by the council. In contrast to this bicameral "Magistrat system," there was the "Council (*Stadtrat*) system," mainly in South Germany, where legislative and executive functions were concentrated in one council, consisting of elected councilmen plus mayor and associates co-opted by the council but usually for terms longer than that of the council itself. Thus even under the *Stadtrat* system, which comes closest to the British type of local government, there has been the peculiar German integration of elected lay councillors with professional administrators. After 1918 national issues tended to overshadow local ones, and party politics colored mayoralty and other elections, but the essential character of German local government was preserved.

### *Postwar Changes and Trends*

There was no reason why, after 1945, German local government might not have been rebuilt on the traditional pattern, but the Allies insisted on reforming it on the pattern of their own institutions, which they held to be universally applicable. The questionable nature of such experiments is illustrated by what happened when the British introduced their system into their zone through the Municipalities Act of 1946. Under this act, all power was vested in a democratically elected council with its chairman as a "mayor," while executive functions were conferred on a staff of unpolitical civil servants headed by a "director" subordinated to the council. This was meant to revive grassroots democracy and to curb executive "tyranny." But the resulting split between a largely ceremonial and powerless, short-term mayor, as head of the council, and a long-term director, as chief of the administration, merely confused the Germans. Separated from its political responsibilities, the supposedly unpolitical administration has tended to become more authoritarian than the former

"political" executive ever was, and capable men have often hesitated to accept positions apparently dependent on council policies and majorities. Unpaid and honorary mayors have found little time to devote to their office, and councils are burdened with too heavy responsibilities. Moreover, state authorities have found it awkward to work with a collective body (the council), instead of with individual officials. This "reform" has also prevented democratic ministers from directing local administrations away from reactionary or neo-Nazi local influence. Such political shortcomings have been even more apparent in rural-county government, where the same system of all-powerful council plus "unpolitical" executive was introduced. Formerly the state-appointed *Landrat*, it is true, was frequently of the authoritarian, "Prussian"-official, type. But when after 1945 his office was made elective, the effect was often the opposite of the hoped-for democratization of county administration. Appointment of progressive officials was now impossible, and the rural electorate has frequently re-elected the former Nazi incumbents. In the American zone the *Landrat*, after 1945, likewise became elective, with similar deplorable results; it merely proved that what serves democracy in one environment may have antidemocratic effects in another.

In Eastern Germany the Communists, with their (theoretical) preference for parliamentarism, have modeled local government uniformly after the regional and central constitutions of the zone. An elected council appoints mayor and associates and may remove them through voting non-confidence in them; the people participate through initiative and referendum. In practice this system merely enables the SED, through assembly, or mayor, or "people," to control local affairs. In the American and French zones (with the exception of Baden, where the mayor, as in France, is elected from among the councillors as a short-term, political official), there has been a general return to one or the other of the earlier German types of local government. The same thing may happen in the British zone where the *Länder* are now free to replace the British-imposed system with one of their own choice. Reform proposals by experts and municipal government associations have suggested

dropping the distinction between autonomous and delegated functions, in order to give full power and responsibility to local units. This would be a great step toward strengthening genuine local self-government, but it hardly appears practicable, because municipalities are too dependent financially, and the state or federal

authorities are too interested in many local activities and services. Local government, in Germany as elsewhere, will be fortunate if it manages to escape a further increase in central controls and to maintain the traditional freedoms which have been the citizen's best defense against a too powerful state.

## CHAPTER 8

# German Law and Administration of Justice

### I. NATURE AND DEVELOPMENT OF THE GERMAN LEGAL SYSTEM

#### *Character of German Law*

In Anglo-American tradition the two bulwarks of freedom against the authority of the state are parliament and the common law. On the Continent, however, law is less a bulwark than an expression of the will of the organized community. At a time when English judges, armed with legal precedents and "right reason," protected the rights of the people from arbitrary authority, Continental jurists fashioned and codified the law as a body of rules for the ordered exercise of state authority over every subject. The judges and courts themselves became a part of the state machinery thus established. In countries with the Anglo-Saxon legal tradition, the law is ultimately considered to be beyond the state, and courts and judges to be a force separate from "government." On the Continent, law is considered as state-made, the court system as integral part of the state organization, and judges, although enjoying independence, are state officials who administer the law in the name of the state.<sup>1</sup>

The German legal system resembles the French and was partly copied from it. First of all, it is code law, not case law, with corresponding advantages and disadvantages (p. 379). The codes and other statutory laws are supposed to be a comprehensive and exhaustive source for the courts' findings. The German believes that it is one of the prerogatives of the state to regu-

late the citizen's activity through codification of rules, and the prerogative of judges to see to it that these rules are correctly interpreted and applied. This attitude produced an able but bureaucratic judiciary, controlling the public rather than protecting it against state bureaucracy. This does not mean that law and administration of justice were felt to be arbitrary. The German citizen feels secure and comfortable under rules that are elaborate enough to govern his actions. Justice Holmes's statement that the essence of law is not logic but experience would make the German uneasy, for who is to tell him what "experience" requires? But if law is essentially inferable from logic, legal security, at least in the average case, is safeguarded. Moreover, circumstances of the individual case are not necessarily disregarded under this system of rules; for, although there is in Germany no distinction between "law" and "equity" in the Anglo-Saxon sense, codification did not exclude considerations of equity. On the contrary, the codes contain many rules that require the judge to apply what amounts to standards of equity. This gives him a good deal of discretion and enhances the role of precedent. In point of fact, although civil law countries and common law countries still differ in the emphasis laid on statute, in the one case, and on precedent in the other case, "The growing significance of statutory law in the Anglo-American system matches the growing significance of precedent in Germany. Starting from opposite poles, the two systems have been marching toward each other, until they are, at least in this respect, no longer very far from each other."<sup>2</sup>

<sup>1</sup> Although not usually in an "arbitrary" way or for political purposes; in this lies the distinction between a liberal Continental system of justice and totalitarian ones, such as that of the Nazis or that of the Soviet Union.

<sup>2</sup> Ernst Fraenkel, Introduction to Frieda Wunderlich, *German Labor Courts*, University of North Carolina Press, 1946, p. 11.

### *Emergence of a Unified Legal System*

In its development, German law reflects German political disunity. While Britain experienced early legal unification through precedents set by royal judges and France, somewhat later, through uniform codes, German law remained splintered into the times of the Hohenzollern Empire. It often lacked uniformity even within the same principality. In Prussia elaborate codes dating from the end of the eighteenth century were valid in parts of the realm only, while French law (after Napoleon) prevailed in the Western provinces. Other German regions had only the unwritten, so-called "common law" (*gemeines Recht*). This was basically Roman law, as rediscovered in the late middle ages and subsequently adapted to modern conditions by practice and custom. The "reception" of Roman law into Germany was the basis of later legal unification. It served three purposes. It armed the rulers of the rising "sovereign" states and their jurists with the Roman concept of state supremacy, and thereby helped to eliminate the remnants of feudal public powers. Since it allowed only contractual rights in land (outside ownership proper), it made the feudal owner exclusive master of the estate, and the peasant a mere tenant or laborer, and thus destroyed in most of Germany the medieval remnants of free peasantry. Thirdly, since it acknowledged only a contractual type of work relationship, Roman law made the worker a mere party to a labor contract, and thus destroyed traditional status relationships and the ensuing obligations of the employer. Roman law, in short, made the ruler sovereign, the *Junker* proprietor, and the employer master. It became the basis for nationwide codification when the Reich was established in 1871 and the Hohenzollern Constitution conferred upon the federal government the power to legislate uniformly in fields like civil and criminal law. Commercial law had already been codified in part prior to 1871. Now civil law, penal law, and law of civil and criminal procedure followed. So technically perfect were most of these codes that even the Nazis, inveighing against their "alien" Roman features, did not see fit to abolish or even essentially revise them (although their interpretation was now subject to Nazi doctrine). Any revision of

their harsher and outdated features after 1871 was due to the efforts of progressive parties or groups of lawyers and others interested in legal reform, and usually was done by adding to the codes statutes for the regulation of special fields, such as labor law, rent law, the law relating to social insurance, or rural settlement.<sup>8</sup> Law remained essentially Roman, logical, and deductive.

## II. GERMAN COURTS

Despite its federal political structure Germany does not have two parallel sets of courts, as has the United States with its federal and state systems. Like the Soviet Union (p. 543) and Australia it has a single integrated system, with state courts on the lower levels, and federal at the top. Although most courts thus belong to different member-states, the system is rather uniform, because courts and procedures (like the bulk of applicable substantive law) are regulated by federal codes. All judgments and other legal decisions and instruments are recognized and executable throughout the nation. There are, for instance, no "stricter" and "easier" divorce laws in different parts of Germany, no problem of "non-recognition" of divorce decrees, and no necessity to "extradite" fugitives from justice from state to state.

### *Special Courts*

On the other hand, German courts do not have the over-all jurisdiction entrusted to courts in Britain and America. In Germany "regular courts" have jurisdiction in civil and criminal cases, while several systems and sets of "special courts" deal with such matters as labor relations, suits against and among public authorities, disciplinary measures against civil servants, and claims against social insurance institutions. Thus labor courts, with local and appeal courts and a high court of legal review, were established under Weimar to decide lawsuits between employers and employees and cases arising out of

<sup>8</sup> A bold and progressive revision of penal law, prepared during Weimar times, never came into force due to the advent of the Nazis; it might have become a model for any modern penal legislation.



collective labor agreements; they are being re-established now. They are staffed with learned judges sitting with lay assessors selected from and by employers and employees; and procedures are simplified, speedy, and inexpensive. Like France (pp. 391-94), Germany has a separate system of administrative tribunals which, though established within the general (interior) administration, possesses guarantees of judicial independence and, by and large, has given fair protection against executive arbitrariness. Unlike France (p. 393), claims against the state out of liability for its agents go to the regular courts in Germany, as do also salary claims and other pecuniary claims of civil servants. But the bulk of claims against, as well as suits between, public authorities are handled by administrative tribunals. Judgment is rendered against the state, and not against individual officials (thus happily avoiding the shortcomings of the older Anglo-American system, pp. 192 f.). The jurisdiction of German administrative courts has generally not been as broad as in France, where almost everybody can file a petition in the public interest. In Germany one has to show that a legal right of one's own, based on a specific law or ordinance, has been violated. Furthermore, a central "supreme" administrative court has been absent; high courts of different states have served instead of the single French *Conseil d'Etat*. The Bonn Constitution calls for the establishment of a federal Supreme Administrative Tribunal, and a draft law now envisages such a court as well as broader jurisdiction of all administrative tribunals in cases where an individual's rights are affected by an act of public authority.<sup>4</sup>

## Regular Courts

### LOCAL COURTS

The regular court system in Germany for civil and criminal cases is characterized by a wide geographic distribution of courts of original jurisdiction (wider even than in France, p. 385). The system has remained basically unchanged since its establishment under the Hohenzollerns.

The present Western German system is as follows. There are four levels of courts: Local Courts, of which there were about 1,700 in 1930, District Courts, Appeal Courts, and the Federal Supreme Court, successor to the Reich Supreme Court, or *Reichsgericht*, which watched over German legal unity from the time of the Hohenzollern Empire to the breakdown of political unity in 1945. Local Courts are found in all larger and many smaller cities and towns. In the smaller towns there is often only one judge, and he takes care of civil and criminal, as well as probate and similar non-contentious matters (there being nothing comparable to the British or French lay Justices of the Peace, see pp. 181, 384). In larger places a Local Court has several judges who divide the different categories of cases. They act as single judges in civil cases up to a value of 1,000 *Deutsche Mark* (DM), in minor criminal cases, and in probate and similar matters. In somewhat more important criminal cases the judge is joined by two lay assessors, chosen from among the local inhabitants by lot; there is no "blue ribbon" or similar system of selection in Germany. In cases of certain minor offenses (e.g., traffic violations) the judge can impose a verdict (a fine or even short prison sentence) without trial, unless the accused demands trial. The traditional right of the German police to punish offenders in such cases has been abolished by the liberal-minded occupants of Western Germany.

### DISTRICT COURTS

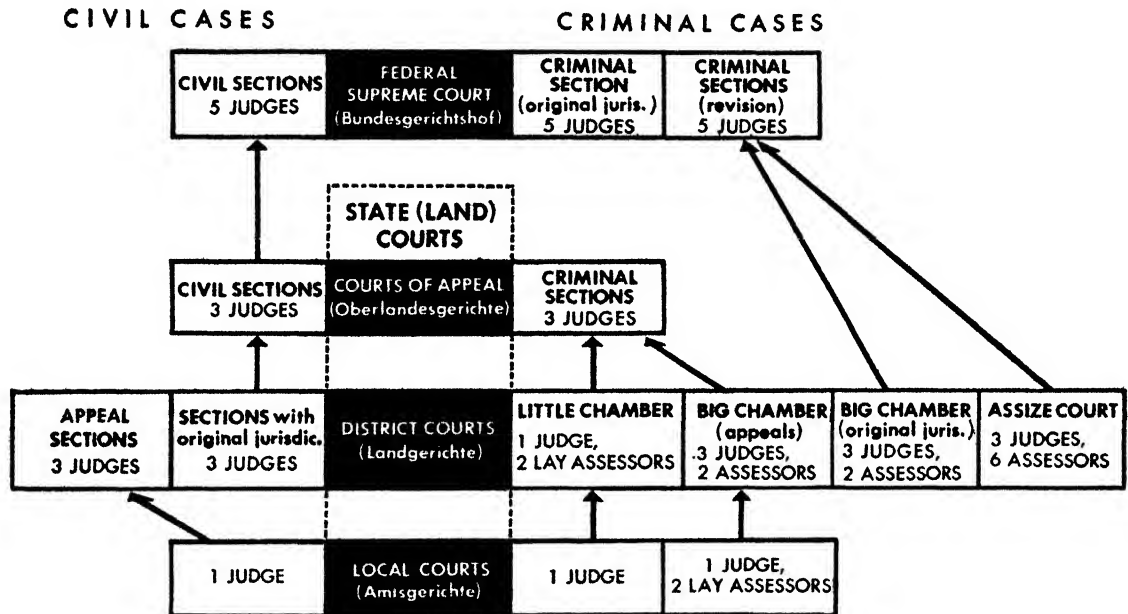
District Courts, which exist in all larger centers, are courts of primary jurisdiction as well as of review of Local Court judgments. They are staffed with larger numbers of judges, who divide into sections (chambers) for different types of cases, and who always sit as collegial bodies of three judges. In cases of commercial law, chambers with businessmen-assessors may be formed. In civil cases District Courts decide in all matters outside the original jurisdiction of the Local Courts, and on appeals against Local Court judgments. In contrast to Britain, appeal, in Germany, means taking up a case anew, facts as well as the law. In criminal cases chambers consisting of three judges and two lay assessors (Big Chambers) have original jurisdiction in

<sup>4</sup> On the Constitutional Court's jurisdiction in cases where a right laid down in the Bonn Constitution is affected, see below.

the more serious cases which are outside the jurisdiction of the Local Courts. In the case of a few, particularly grave crimes, such as murder, special sections, called Assize Courts, are formed. But these have nothing but the name in common with assizes and jury trial. While there *were* periods when the lay members of such sections decided as genuine jury independently

there are civil and criminal sections with three judges each, here called "senates." Civil senates review District Court judgments where the District Court had original jurisdiction. Criminal senates decide upon points of law only, in cases where revision is demanded of Local Court sentences which had been appealed to the District Court's Little Chamber. The Court may con-

### REGULAR COURT SYSTEM IN WESTERN GERMANY



about the question of guilt, today, as for long periods of the past, six lay assessors sit, decide, and vote *jointly* with three judges, a system which, as in the other instances of lay assessors, gives actual preponderance in the procedures to the learned judges. Voting is always by majority. Besides this, District Court criminal chambers review Local Court verdicts: Big Chambers in cases where the local judge had been assisted by lay assessors, Little Chambers (one judge and two lay assessors) in appeals against the single local judge.

#### APPEAL COURTS

It is appropriate to use "Appeal Courts" to translate the German name of the next court level because, except for certain rare cases, they lack original jurisdiction. As in District Courts,

firm the sentence, quash it, or order retrial by the lower court. It never tries the case itself.

#### THE SUPREME COURT

The highest (supreme) federal court was established in 1879 when German law, civil and criminal, was being unified through federal codes. The old *Reichsgericht* had its seat at Leipzig (now in the Soviet zone). Its successor, in the West, is the newly (1950) established Federal Supreme Court at Karlsruhe. Its main function is to ensure uniformity of legal interpretation, especially necessary after the five years of legal confusion, 1945-1950. It decides points of law in civil cases from the Appeal Courts, and in criminal cases from the Big Chambers or Assizes of District Courts. It will be noticed that in the more serious criminal cases there is

thus no second appeal trial, while there is one in less grave cases, a somewhat strange inconsistency. The Supreme Court consists of civil and criminal "senates," each staffed with five judges sitting and deciding together. All Appeal Court judgments where the value of the case exceeds 6,000 DM, as well as, regardless of value, certain defined categories of cases, such as divorce cases, are reviewable by this court. Unlike the United States Supreme Court, the German highest court cannot select the cases to be reviewed.

In one case, that of treason, the Supreme Court has original criminal jurisdiction. Treason, according to German law, is not only betrayal of one's country's interests to a foreign power but includes also, and primarily, preparation of forcible overthrow of the internal structure of government. It is in this field of crimes of "subversion" that the old *Reichsgericht* showed partiality toward the Right (p. 619).

#### JUDICIAL REVIEW AND CONSTITUTIONAL COURT

As an institution for safeguarding unity and uniformity of law, the Supreme Court has always fulfilled an important task, although traditionally it had no power of judicial review. It assumed such power in the late twenties, and the Bonn Constitution now provides that in cases where ordinary courts have doubts about the constitutionality of a law a court different from the Supreme Court, namely, the Federal Constitutional Court, shall decide the issue. The Eastern German Constitution, of course, does not include judicial review. The West adopted it on American insistence. Whether in a German environment this institution, protector of American liberties, will prove similarly beneficial remains to be seen. In Germany judges have often been a brake on progress, and their assumption of the right of judicial review in Weimar times was largely motivated by fears that legislation might go too far in the direction of state regulation of private property or "socialism" (somewhat similar to the attitude of the anti-New Deal U. S. Supreme Court of the middle thirties).

Besides judicial review, the new Federal Constitutional Court, which started functioning in 1951, has many other powers. As its predecessor in Weimar times, it decides in cases of constitu-

tional conflicts between Federal government and *Länder* or among *Länder*; it may outlaw parties deemed antidemocratic, may decide about retirement of antidemocratic judges, and may render advisory opinions to federal authorities; and it fulfills part of the functions of the French *Conseil d'Etat*, in as much as any person who claims to have been deprived of one of his constitutional rights by a public authority may appeal to the Court. Depending on the Court's initiative and democratic inspiration, this vast jurisdiction may well accrue to the benefit of German democracy.

### III. THE GERMAN JUDICIARY

#### *Judges, Prosecutors, Judicial Administration*

The German judge is a part of a machine called "administration of justice." When he acts, the State acts through him. The judge remains anonymous even when he renders his judgment. The judgment, like all other decisions, is made by "the court"; even when, at a Local Court, the judge acts alone, his person recedes behind the *abstractum* "the court"; he announces, for instance, that "the court" will take such and such a motion under advisement. One does not find the word "I" or "We" in decisions or opinions, and no "dissenting opinions" are made public. Judgments and opinions, in general, do not betray much individuality but are drawn up according to a formal pattern. The fact that the German judge interprets and applies elaborate codes has, of course, something to do with this apparent absence of individual judicial creativeness. But, as has been pointed out above, application of codes still leaves a good deal of leeway for judicial discretion. The main causes of the judge's anonymity and formalism are his training and the influence of his administrative superiors. The judge, to be sure (except for the Nazi period and now in Eastern Germany), is independent as far as judicial decisions are concerned. The chief guarantee of his independence is his life-tenure, which means irremovability except for cause, and his protection against being transferred against his will from one posi-

tion to another. But in the very fact that the judicial career is for life are the seeds of subtler dependence. Like other high officials, future judges have to undergo the specialized studies and training at universities and through in-service at courts which has traditionally been reserved to the sons of the upper classes. After passing the second examination, opening the way to judicial position, they must decide whether to enter the bar as practicing lawyers, or the state service. Unlike British judges (p. 180) German judges are not drawn from the bar but generally devote themselves from the outset to an official career. This not only shuts them off from the wider views which dealing with clients gives the attorney, but also makes them conscious of being part of a specialized bureaucratic machine. The large number of judges (in 1930 over 10,000) adds to this feeling.

Prosecution is a specialized machinery within the machine of the administration of justice. Although there is, as in France (p. 382), some shifting between judgeships and prosecutors' positions, judges and prosecutors usually specialize. Thus the judge, like the prosecutor, tends to become bureaucratic, bookish, and, like most higher officials, authoritarian-minded. Also contributing to this is the indirect influence of administrative superiors. Both hierarchies, courts as well as prosecutors, are under ultimate supervision of justice ministers, and there is at each court one judge (at all except Local Courts called "President") who represents the minister and co-ordinates the activities of his court. In the judiciary, as in other bureaucracies, conformism, coupled with industry, is the royal road to success. The judge knows that if he continually renders decisions not liked by his superiors, or decisions that are frequently appealed and reversed, or if he generally behaves "individualistically" and "unco-operatively," he can hardly expect promotion. Unlike elected judges, who may be influenced by public opinion, parties, and politicians, the German judiciary is free from that type of dependence, in a way too free; for the drawback of the German appointive system lies in the influence exercised by the group, or caste, to which the judge belongs. His prestige consists in being a member of the group and depends on the rank he holds in it.

#### EAST-GERMAN JUDICIARY

The consistently authoritarian-conservative character of the judiciary has not changed materially since 1945, at least in Western Germany. In the East there is, of course, political co-ordination of the judiciary as of everything else. In order to replace the old judiciary with a new "socially conscious" one, persons drawn mainly from the ranks of workers and smaller employees were trained as judges in "rapid courses," generally of six months' duration. Two-year "judges' schools" have now replaced this system. Selection as well as training are entirely political, and leading positions are filled with reliable SED members. By 1951 two-thirds of the judges and over 90 per cent of the prosecutors were members of the SED. Lay assessors are elected by the respective representative bodies (municipal councils, parliaments) after nomination by the SED and party-controlled "mass organizations." "Election," of course, means automatic confirmation of the nominations. Among professional judges, the highest are elected by Parliament, the others are appointed by *Land* ministers. They are appointed for an indefinite term. But "indefinite" no longer means "irremovable," as has been made clear by statements of official spokesmen of the regime. Thus the decisive guarantee of judicial independence has vanished.

#### JUDICIARY IN WESTERN GERMANY

In Western Germany, the failure of denazification has reopened all positions in judiciary and prosecution even to those who had taken a more active part in the Nazi administration of justice. In order to reopen the courts rapidly, retain the same number, and guard the expert status of the profession, there was perhaps no other way but to readmit the majority of those who, more or less under pressure, and more or less actively, had co-operated with or in the Nazi Party and its organizations. More questionable is whether it was also necessary to reappoint more heavily incriminated judges, and to open even higher positions to former Nazis. Indiscriminate and over-all "renazification" of the judiciary has now borne the bitter fruit of a politically biased justice, which will be discussed below. Appointments, as before, are for life, and are made by

justice ministries. For federal judges, however, a novel system has been introduced, under which judges of the federal courts (in particular the Federal Supreme Court) are elected by a committee consisting of high officials of the administration of justice together with persons elected by the *Bundestag* in proportion to party strength. Whether this system, which somewhat resembles the new French system (p. 380), will mean more or less politization, remains to be seen. As to the Constitutional Court, twelve of its members are elected by the *Bundestag*, the other twelve by the Federal Council; all of them have to be trained lawyers.

### ***How Satisfactory Is the German Legal System?***

It is sometimes said that in England and America, but not on the Continent, the judge is "king." We have seen that in some respects this assertion is valid. But in another sense a French or German judge dominates proceedings and trials to a much greater extent than his Anglo-American brethren ever do. For, while the British and the Americans look upon a lawsuit, and particularly a criminal trial, as a kind of duel, in which the parties fight it out and the judge is a mere umpire to uphold the rules of the duel code, in Germany (as in France) the judge himself is entrusted with finding the truth, and the parties, attorneys, and prosecutors are simply aides in his investigation. In this sense, the law emerging from judicial proceedings is "judge-made" in Germany, while in Britain and the United States it is largely "attorney-made." This has its advantages and its disadvantages. Highly formalized rules of evidence provide better protection for the defendant in Britain and America, while less formalism on the Continent permits more thorough investigation and saves procedures from that abuse of formalities which is the bane of American trial procedure. In Germany there is little cross-examination of witnesses; the presiding judge examines them. He admits and excludes evidence; experts are usually appointed by the court and are supposed to present their findings impartially, not as "expert witnesses" of prosecution or defense. There is, of course, nothing to the myth that the defendant is presumed

guilty (as little as in France, p. 390). He is presumed to be innocent unless the prosecution proves his guilt. But the defense (defendant as well as defense-lawyer) has a difficult stand against the machinery of justice. Prosecution—as well as the police in preliminary proceedings, and the court itself—is less bound by formal rules. Preliminary proceedings are often long, and release of defendants from arrest on bail, in contrast to Britain and America, is very rare. Even in the public trial the prosecutor, representing the State, somehow enjoys a higher prestige than the defendant and his attorney.

On the other hand there is little police brutality, arrest must be confirmed by a judge not later than the end of the following day, and detention prior to trial has to be reviewed periodically. No defendant is sworn in as "witness in his own case," but, of course, he has the right to be heard. A defendant acquitted as innocent can claim indemnification for pre-trial detention. As to punishment, the death penalty is now abolished in the Federal Republic, but not in the "progressive" Eastern Republic. Few German prisons are as progressive as some in the United States, but, on the other hand, there are no "chain gangs" or similarly atrocious ways of punishment. In civil cases the proceedings are largely written, with parties and their attorneys exchanging written statements, depositions of witnesses or experts, and so forth; the court bases its judgment largely on these documents, with only perfunctory public sessions.

One point which can be made for the German system: it is less plutocratic than the Anglo-American one. Appeals and revisions in civil cases, to be sure, often depend on a minimum money value of the case. But general costs are not high, mainly because, in civil cases, lawyers' fees are fixed at specific rates by statute. Impenunious parties or defendants are entitled to free proceedings (including the cost of witnesses and experts, in that case borne by the state) and the services of a court-appointed and state-paid lawyer. There is no need to "raise defense funds" through appeal to the public (as sometimes in America). Moreover, while in the United States a civil claimant often refrains from going to court because, even if he wins, he has to bear his own costs, German law provides that all costs are to be borne by the de-

feated party. Justice, in Germany, is thus relatively inexpensive; it is, moreover, accessible, generally fair, and not overly complicated. But it is authoritarian, and, in political cases, has at times tended to be biased.

#### IV. THE LEGAL LEGACY OF NAZISM AND PROTECTION OF RIGHTS AND LIBERTIES

##### *The Legacy of Nazism*

No legal system and no judiciary, perhaps, was ever confronted with legal problems as complex and difficult as the ones left to post-Nazi Germany as a legacy of the Nazi system. Unheard-of crimes had been committed, rights despoiled, new vested interests created in their stead, and much of this by statutes and regulations appearing in the form of law. Should all this now be left alone? Or should all of it be investigated, innumerable acts prosecuted, innumerable transactions revamped? What was to be done about actions which the Nazis had made racial or political crimes, and for which sentences had been passed? What, on the other hand, about acts which, under the laws of the regime, were not crimes (indeed, possibly were even legal duties, for instance, denouncing anti-Nazis to the authorities) but which now appeared eminently punishable? What about "Aryanized" property of which Jews had been despoiled? What (to refer to a few particular cases) about the German soldier who, when all seemed over in 1945, "deserted" and went home? What about the military judge who condemned him to death? What about Nazis who put to death those who, in the last stages of the war, prevented the Nazi-ordered last-ditch defense of some city and thus saved it from destruction?

##### WAR CRIMES AND THEIR PROSECUTION

What, above all, about the enormous crimes committed in and outside of Germany which were later to be known as "war crimes" or "crimes against humanity" (such as extermination of Jews and other groups, medical experi-

ments on living persons amounting to torture, maltreatment of slave labor) and whose perpetrators the Allies had vowed to "pursue to the uttermost ends of the earth" to bring them to justice? It is true that Germans were spared the trouble of worrying about these problems to the extent that the Allies took it upon themselves to deal with them before the Nürnberg International Military Tribunal as well as courts set up by individual occupants in their zones. Some groups of "major war criminals" were tried this way by the Allies and sentenced. The Allies also enacted a number of laws dealing with such problems as "restitution" of despoiled property. But this still left to Germany, in the field of Nazi criminality, the prosecution of all but the somewhat haphazardly selected cases dealt with by the Allied tribunals.

No better touchstone of German reorientation can be found than Germany's approach to these problems. Through nothing else might it have better and more publically purged itself than by honest prosecution of unspeakable crimes. Germans had a legal basis for bringing Nazi crimes to justice in that many of the most atrocious acts had not even been sanctioned by Nazi law, for instance, the mass executions in gas chambers; such acts thus were murder under German law in force at the time when they were committed. Moreover, a law issued as one of the few joint laws on which the four-power Allied Control Council had been able to agree (Control Council Law No. 10) defined as "crimes against humanity" "atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, and other inhumane acts committed against any civilian population, or persecutions on political, racial, or religious grounds, whether or not in violation of the domestic laws of the country where perpetrated." Inasmuch as this law also penalizes acts *not* in violation of any domestic law, it has been condemned as "*ex post facto*," and any *ex post facto* law is, of course, distasteful to liberals. On the other hand, without the threat of retribution in such cases any totalitarian regime might perpetrate in "legal" form the most heinous acts, knowing that, under the liberal principles of a succeeding regime, the perpetrators would be immune from prosecution.

### GERMAN FAILURE TO COPE WITH THE PROBLEM

In the Eastern zone a genuine effort was made at first to bring major Nazi criminals to justice; but this was marred by subsequent use of "war crimes" trials to eliminate "class enemies," whether they had committed crimes or not. Retributive justice was thus turned into a political instrument. In Western Germany, outside of Allied trials proper, there was no genuine and concerted effort to deal with the problem. Prosecution lagged; it devoted its efforts, if any, to cases which, in comparison with the major atrocities of the war years, were relatively minor, such as the anti-Jewish outbreaks of 1938 ("synagogue burning"). Outside of these cases, prosecution was more or less a matter of coincidence. In a rare instance, a surviving inmate of a concentration camp would recognize one of his torturers in the streets and have him arrested; or a denazification trial would yield evidence of criminal action. Even then prosecution and trial often turned out to be a farce. To be sure, legal and factual circumstances were often complicated; but all too frequently have courts been inclined to believe a defendant's assertion that he was in reality an anti-Nazi "resister," or to grant that he acted under duress or obeyed superior orders. In other cases sentences imposed have been so low as to amount to "honorary" acquittal. German opinion, at first shocked by these "judicial scandals," has now come to accept this leniency, partly under the impression that major miscarriages of justice happened in the Allied trials, and that Germans need not be "more papal than the Pope." It is true that in some of the Allied trials evidence was obtained by methods objectionable under American standards, but in no case was there a lack of abundant additional evidence that grossest crimes had actually been committed by those convicted. However, those eager to extenuate Nazi deeds succeeded in creating an impression that Allied justice had been altogether biased. The fact that most of even the major criminals convicted by the Allies have now been pardoned<sup>5</sup> confirmed

this impression. Allied "revisionist" literature has lent aid and comfort to many German Nazi sympathizers. Freedom from prosecution, moreover, was granted to many Nazis under a Western German amnesty of December 31, 1949, and no Nazi has been put to death by Germans in Western Germany. The individual effects of the "mild" approach are perhaps less important than its political implication. Important German circles which made this approach the condition of their "collaboration with the West" are now available as "allies," but at what a price! Democratic principles have been expendable.

### Protection of Civil Liberties

A more welcome legacy of the Nazi period has been the greater awareness on the part of many Germans of the importance of individual rights, civil liberties, and their protection. The wholesale destruction of liberty under the Nazi regime, and the sense of utter insecurity it created, engendered a marked appreciation for the blessings of personal freedom and privacy. Traditionally, in contrast to Britain and France, the law in Germany has been not so much an instrument for the defense of individual freedom as one to maintain order and enforce individual duties. True, there has generally been less of the "unofficial" kind of interference with liberties and the realm of privacy on the part of pressure groups such as has more recently developed in the United States (for instance, unofficial religious or political censorship of the press, theater, movies, and their employees). Yet the public authorities in Germany have been notoriously negligent in respecting such freedoms, and the courts remiss in protecting the citizen against police interference. The courts' role in such cases is a limited one in any event. Litigation after the fact, for instance, after a public meeting has been forbidden, or an issue of a newspaper confiscated, is often rather meaningless, because the chief damage is done through the police action anyway, and subsequent legal action can only insufficiently make up for it. The possibility to appeal to courts may, of course, act as a deterrent on the police or similar authorities. But whether the courts can today be counted upon to afford a more liberty-conscious public

<sup>5</sup> Except, of course, those convicted in the first Nürnberg trial (Göring *et al.*); those of them sentenced to imprisonment are held at Spandau under joint four-power custodianship, one of the rare surviving instances of inter-Allied co-operation.



the protection it desires seems still doubtful. The Bonn Constitution offers relatively little help in this respect. Like the Weimar Constitution (p. 618), it affords in many cases no protection against infraction of a right or liberty by "law" (for instance, by statute). A recent study has shown that even concentration camps could be lawfully re-established if ever a *Bundestag* majority should enact a statute to this effect. Judges could not interfere in such an event. Considering their authoritarian attitude, it is equally doubtful whether they would.

On the other hand, there is for once in Germany considerable public concern about individual liberty. Police arbitrariness or other high-handed action by authorities is loudly condemned by part of the press and the general public. It is likely that much in this recent appreciation of individual rights has been caused by what has happened in East Germany: the loss of regained liberty to a new totalitarianism which, in this respect, is exactly like the previous one. There, the secret police have reappeared, complete with a network of informers

and the right to spy on everybody and everything. Until early 1950 it also ran concentration camps in which large numbers of persons perished through maltreatment and neglect. In that year those who survived were transferred to prisons where conditions are hardly better. Most of the detained, in order to have procedures "legalized," were summarily condemned to long terms of imprisonment at the famous, or infamous, Waldheim trials in the spring of 1950.

Liberty in Western Germany, faced with this double threat of external totalitarianism and internal authoritarianism, depends on continued public awareness and the assistance rendered to an unorganized public by an independent press and other groups (such as the new, American-patterned, German Civil Liberties Union) resolved to check a reluctant or hostile bureaucracy. Success here, in an uphill fight against adverse (authoritarian) tradition and hostile (neo-Nazi) political forces, would be a more significant victory of German liberalism than its victory in many a political battle.

## CHAPTER 9

# Problems of German Society

German society has long been characterized by its stability, and even rigidity. Such stability was typical of *all* European society before the industrial age. But with industrial capitalism this static society became fluid; new methods of acquiring wealth altered established group and class lines, and the new principles of freedom and equal opportunity destroyed ancient privilege and allowed for more social mobility and a constant "circulation of elites." German society, however, managed to order the new phenomena into a fixed system, where old and new classes had their assigned place. The bureaucratic caste, drawn mainly from the upper classes, continued to rule politically; business organized itself into cartels for the regulation of the market, and into employers' associations to deal with workers and employees. The latter, largely prevented from rising to a higher status in society, organized themselves in trade unions. Depressions and other hazards to economic and social stability were fought with an elaborate system of social security, particularly social insurance.

But the system was actually brittle. It could not stand major upheavals. Thus, the unemployment insurance system broke down under the impact of the great depression of the early thirties. So did the compliance of large social strata with the inherited social system generally at that time, which was one of the causes of the rise of Nazism. The system was brittle more basically because it was built on conquest of foreign markets, through economic and, if necessary, political expansionism, of which the trusts became the spearhead. Instead of producing for German mass consumption, German industry produced chiefly goods for export or for the consumption of a relatively small upper

group of Germans. It did not provide for a steadily rising living standard of the German masses.

Today German society is confronted not only with these older problems but, in addition, with the problems of integrating millions of refugees (see pp. 583-84) and the problems arising from the present division of the country. In the East, there is a new, manipulated society whose structure derives from the *fiat* of a ruling party. In the West, there has been in effect simply an attempt to preserve the former rigid structure through a somewhat strange coalition of bureaucracy, business, labor, and peasantry. While divided over many issues, these groups are united in self-interest against the "new proletariat" of refugees and war-damaged persons who are clamoring for a share in wealth and social status; they are also united against Communism, under which most of them would lose status, possessions, and freedom. Outwardly, at least, the rigid old German social structure is therefore still in existence in Western Germany, but whether it will be able to survive through a purely defensive attitude is a big problem.

## I. PROBLEMS OF EDUCATION

### *The Traditional System*

It has been the peculiar German system of education that has constituted the principal means of maintaining the traditional class structure. It has divided Germans into two sharply defined groups: the "educated" (*Gebildete*) and those who had no chance to have an education. The concept of *Bildung* (inadequately translated as "education" or "culture") is typically

German. It implies not only a certain minimum knowledge of facts but also some faculty to appraise and evaluate facts on the basis of a coherent *Weltbild* (image of life and the world). It has been solely the property of an elite, small as compared with the masses of the "*Ungebildete*." Membership in this elite was attained, not on the basis of selection of talent through equal opportunity, but through the educational monopoly enjoyed by those financially able to send their children through the special institutions for higher education, the *Gymnasium* (high school, with various types, according to whether classical studies, or mathematics and sciences, or modern languages are emphasized) and the universities (which, in contrast to those in the United States, are not so much colleges for "general education"—which one is supposed to have acquired already at the *Gymnasium*—but specialized and graduate institutions of learning). The *Gymnasium* at an early point branched off from the primary or "people's school" (*Volksschule*). The latter, providing elementary training, was the only one which most German children attended. Most of them stayed there until the age of fourteen or fifteen, but the selected few were sent by their parents (and not on the basis of talent or examination) at about the age of nine to high school. After attending high school for about nine years, they passed a final examination (*Abiturienten* examination), which entitled them to enroll in a university. Thus the future fate of a German child was determined at an early age and almost irrevocably by whether or not he entered the charmed circle of those destined for higher tasks. In Western Germany, even today, only 7 per cent of all children attending school are enrolled in high schools; for such a child three to four times as much is spent *per annum* as for a child attending *Volksschule* at the same age.

It is true that occasionally parents of lower status, through great sacrifice, managed to give their children a higher education, particularly lower and middle rank officials, eager to see their sons climb to the higher rank closed to them; but it was a rare occurrence for a child of a worker or small peasant. On the other hand, the connection between money and the prestige enjoyed through *Bildung* was by no means automatic. Higher education has been

demanding; and those who have gone through the specialized studies of the highest level, the universities, have traditionally filled the higher positions in administration, justice and education, as well as in the professions. These positions, despite lower income they have usually yielded, have carried more social prestige than does wealth, particularly the wealth of "newly rich." "Self-made men," in contrast to America, were laughed at rather than admired. They could wipe out their cultural inferiority only by "normalizing" their children through the higher education which they themselves had missed. The rigidity of this system was unrelieved by any large number of scholarships or other means to help the underprivileged.

The traditional educational system was undemocratic not only in that it gave a small elite a monopoly of access to leading positions in state and society, but also in that it instilled into Germans generally the attitudes of authority and submission. The structure of the German family (with the dominant father) has often been held responsible for the authoritarian atmosphere in which the typical German has been raised. But it was more likely the typical social institutions which the young German came to know, the schools, the army, factory or shop, which chiefly created this atmosphere. The German family did not remain authoritarian any longer than the family in other European countries; it ceased to be so after World War I. But in the schools the authoritarian spirit by and large continued to prevail, with the student in awe before the teacher and professor. Since all schools and universities in Germany are state institutions, the pupil encountered "state authority" at a tender age in the person of the—usually male—teacher at the *Volksschule*. There were, and are, no school "boards," and few PTA's to loosen this rigid system. Curricula were stiff, discipline was strict, there was a good deal of "cramming."

### Problems of Educational Reform

#### EASTERN GERMANY

Democratization of German society through educational reform has been a major concern of the Allies during the postwar period. But poli-

cies, of course, have differed fundamentally in East and West. In the Soviet zone the traditional system has now been replaced with something that looks democratic indeed. All children have to attend the common "basic school" (*Grundschule*) for eight years. The best qualified may proceed to three years of tuition-free high school in preparation for academic studies, while the others attend occupational schools for a couple of years. In reality selection is political, with children of "bourgeois" background excluded from higher education, and those of workers and farmers enjoying preference. Once given preference, they have to prove themselves through "right" (that is, "Left") political attitude, participation in the activities of the "Free German Youth," and so forth. Examinations are shaped to test "social and political maturity" rather than knowledge. Thus, since only the politically most zealous are admitted to the rank and posts of "Gebildete," Eastern German youth is bribed into at least passive compliance with the system; it is also the only group in which one finds some genuine enthusiasm for the new totalitarianism. On the other hand, whatever active resistance can be encountered is also found mostly among the young.

#### WESTERN GERMANY

In Western Germany the Allies have pursued two major aims: elimination of Nazi influence (in teaching personnel, curricula, and texts), and democratization by abolishing the class barrier. Texts and curricula have been revised, but the failure of denazification has permitted the large majority of those who had been teachers under the Nazis to continue. Many of them, of course, were nationalist-conservative rather than Nazi, and do not now preach Nazi principles, but their conservatism has hardly changed. More hope for democracy seemed for a while to lie in the young people, and particularly in those at high schools and universities. Experience under Nazism as well as in the postwar period made many of them receptive to new ideas and values, and this responsiveness offered a chance to fill the void with democratic values.<sup>1</sup> But at present, German university stu-

dents seem primarily interested in acquiring that knowledge and passing those examinations which will give them quick access to jobs. Most of them, politically, adhere to the traditional, "above parties" attitude of an "unpolitical" nationalism.

There has been little success so far in attempts to enlarge the social basis of education. Because education is a matter of *Land* jurisdiction, attempts at reform, in this respect, have differed widely. In some *Länder* (especially those where Social Democrats rule) the period during which all children have to attend *Volkschule* has been extended from four to five or six years, but even there the *Gymnasium* is generally not tuition-free, and the basic difficulty, the financial inability of lower class parents to support their children for the many years of higher studies, continues. The social composition of the student body at universities in 1951 was about the same as always, with one-half being sons (and daughters) of academically-trained upper-class fathers, the other half of lower middle-class parentage, and with few from the workers' class. The exclusivist "corps" (fraternities), at first suppressed at the insistence of Military Government, have been revived, and frequently control the general student organizations at the universities.

Many Germans, even outside the upper groups, are skeptical of reforms of the type suggested or initiated. They fear, with some reason, that merely extending the duration of *Volkschule* attendance and reducing the length of study at *Gymnasium* correspondingly might only mean taking away something from the ones without giving something to the others, might level down standards without really opening higher education to talent. It can hardly be denied that mass education, whether totalitarian, as in the Soviet Union, or democratic, as in the United States, entails a danger of distorted or pseudo- or half-education. Traditional British and German education, while perpetuating a caste system, has preserved some foundation for culture in a world increasingly unaware of even the importance of such preservation. While in Germany there has been less "freedom of choice"

<sup>1</sup> A general distrust of established educational authority may, or may not, be revealed by a story recently reported from some university, where, at a row of hooks outside the

lecture-room, under the sign "reserved for professors only," there was found the scribble "may also be used to hang hats and coats."

among courses, there has been more emphasis on cultural subjects (no equal credits for Home Economics and Greek Literature). There has, until recently, been less variety, and even some neglect of certain fields, such as social studies, but education has been thorough in what *was* offered (for instance, not Latin for one term and Spanish or physics the next, but 6 or 8 years of Latin or French or mathematics at high school). The emphasis on presenting a coherent image of the world (especially through the study of history and the humanities at the *Gymnasium*), while easily taken advantage of by religious or political dogmatism, makes possible a deeper understanding of life and world than "information" in, and "appreciation" of a hundred scattered and unconnected fields. At the universities, it is true, the emphasis has for a long time been on specialized studies. Frequently there has been a bookish, ivory-tower atmosphere, and sometimes an abstract approach, theorizing for theory's sake. According to a famous joke, Germans, confronted by two signs: "This way to Paradise" and "This way to lecture on Paradise," flock to the lecture. Yet all of this does not compare entirely unfavorably with a system, like the American, where studies and teaching are often held in low esteem and where many institutions of learning are compelled, like business establishments, to compete for funds through commercialized athletics. More serious for German universities has been the lowering of academic standards under Nazi "co-ordination," their loss of moral prestige because of collaboration with Nazis, and the difficulty, under present conditions, of regaining the high standing they deservedly enjoyed previously.

Opening the universities suddenly to large masses of the "uneducated" would probably lead merely to a lowering of standards. The only solution may be to begin at the level of the high school. A gradual broadening of access to higher education, coupled with an improvement of primary education, might avoid destruction of the high standards of which Germans have been proud, and yet not reserve education to the few on a class basis. Such leveling-up might, in time, eliminate that which strikes the Amer-

ican most when he meets Germans—their almost instinctive observation of the barriers between high and low, between educated and uneducated; it might gradually generate that feeling of being on an equal footing with everybody else which a society without educational monopoly, like the American, has created despite all distinctions in wealth and income.

### *Churches and Education*

Like France (pp. 247, 397), Germany has been plagued both with the problem of class education and with the problem of the relation between churches and schools. There are no private "denominational" or "parochial" schools in Germany, since all schools are run by the state, but religious influence has been strong in those regions where *Volksschulen* are set up separately as Catholic or Protestant according to the faith of the pupils and teachers (*Bekenntnis*-schools). This not only means lowering of standards where one denomination is very small but also the perpetuation of the religious split of Germany by rooting it early in the mind of the child. The churches, however, defend the system and seek to extend it because it gives them influence over the minds of those children in particular whose families otherwise would not instill much religious feeling. Thus Catholic schools have been instrumental in holding German Catholicism together as a strongly integrated group. But the *Bekenntnis*-schools do not prevail everywhere. The high schools have never been so divided. And there are many regions where even the *Volksschule* has been non-denominational, with students joining different groups only for simultaneous religious instruction (*Simultan*-schools). This more liberal system has been one of the major political storm centers in recent years (as it had been under Weimar), with the Christian Democrats standing for separate schools, and Socialists as well as Free Democrats opposed. Since decision is left to the *Länder*, the system of separate Catholic and Protestant schools continues in such major areas as Bavaria and Northrhine-Westphalia. This struggle adds one more to the many doctrinal issues dividing Germans.

## II. LABOR AND SOCIAL SECURITY

German Labor, in status and policies, reflects the rigidity of German society. The educational monopoly of the middle class and the absence of an economic "frontier" in Germany have prevented social mobility of the American type and have frozen Labor at the lower level of society. Consequently, German Labor has been characterized by class-consciousness, a resulting *political* labor movement, and dominance of the Marxian brand of socialist ideology. The effective and disciplined German trade unions, unlike those in America, have not limited themselves to industrial activities but have tried (more in the British manner) to achieve gains for Labor through backing political parties and influencing legislation and administration. Although (unlike British Labor) German Labor has never been strong enough politically to put its program of socialization into practice by gaining political control at the polls, it has been able to make significant advances through labor legislation and social reform.

### Social Insurance

Germany was one of the earliest progressive countries in labor legislation and social insurance. The period prior to Weimar was characterized by social reform measures granted "from above" (p. 608), which were mainly of a protective nature. After 1918 gains were attained chiefly through Labor's participation as a recognized partner in the regulation of labor affairs. The main achievements were the right of collective bargaining, conciliation and arbitration of labor disputes, establishment of labor courts (pp. 718 f.) and works councils (cf. below). Besides legislation for maximum hours, restriction of child and women's labor, and effective factory inspection, the period prior to 1918 witnessed the adoption of a comprehensive system of social insurance. This system reflected a traditional German concern for the social welfare of the masses not otherwise admitted to political or social standing. Compulsory health insurance was introduced in 1883, accident insurance

(workmen's compensation) in 1885; disability and old age insurance (with benefits for all those insured over sixty-five) followed in 1891; unemployment insurance was added after World War I. All this was done by uniform Reich laws. But while the German system is thus one of the oldest, it has never been so all-inclusive as the new British "cradle-to-grave" system (p. 198). The German system is not based on the idea of securing *everybody* a minimum living standard but rather of insuring one class against specific hazards. It does not include family allowances for every family. On the other hand, the class which is so protected is inclusive. It comprises workers and other employees, without significant exceptions, and functions on the basis of rights acquired through contributions. In most cases they are made by both employers and employees, the latter's through withholdings from wages and salaries. The federal government has also contributed. As in France (p. 403), the system has been administered on a functionally and geographically decentralized basis, with local or regional "funds" for the different insurance branches, and boards on which employers and employees are represented. A central Reich agency (Reich Insurance Office) with regional offices has been the supervising agency for the different insurance branches and the special high court to decide contested claims. Today this system is being re-established in the West; Eastern Germany, on the other hand, has replaced it with a uniform over-all system dealing with all branches in a centralized manner; and, as in the Soviet Union (p. 554), the trade unions have been put in charge of administering it.

Since its inception this system has been one of the most constant of all German institutions. As a whole, it survived the currency inflation of the twenties, the depression, the Nazi regime, and postwar turmoils. In its main features it is taken for granted by most Germans, despite the heavy burden it involves (in 1928, it meant an 8 per cent deduction from wages to the average worker, a corresponding contribution for each worker from the employer, and a Reich contribution of 1 billion to the over-all cost of 6 billion *Reichsmark*). It has been maintained that the

system has made the German too "security-minded," and that facilities such as the manifold benefits under health insurance have been taken advantage of; but it is hardly contested that public health has benefited, and even the average doctor, who first objected that the system destroyed the personal relationship between doctor and patient, gave up his opposition when, in financially difficult periods, he survived only owing to his *Kassenpraxis* (fees paid him for treatment of insurance cases). The problem of how to prevent abuses is, of course, a difficult one, particularly in health insurance. In Britain doctors (in addition to a small salary) are paid according to the number of *patients* treated, with the danger that they may want to treat as many as possible as little as possible. In Germany they receive fees for each individual *service* rendered, with the danger of superfluous treatments and prescriptions. Perhaps the best way out of this "doctors' dilemma" would be (as G. B. Shaw suggested<sup>2</sup>) to make doctors, like teachers, public employees and as such responsible for good health standards in their assigned areas. Unemployment insurance has been attacked as conducive to loafing, but the average German worker, who loves to work, has not been inclined to forego working in return for a miserably small dole. Job insurance, however, practically broke down during the Great Depression, when the employed, through their contributions, could no longer maintain a system which now had to take care of millions and whose reserves became exhausted. Since the system set maximum limits for unemployment benefits, most insured eventually found themselves at the mercy of local welfare agencies.

It may be that the social insurance system strengthens a general German tendency to rely on others. But it is difficult to see how the average German worker or employee, who cannot make savings from his earnings, could be self-reliant. The alternative to insurance would be misery or, at best, reliance on charity. Insurance, with its contributions from the insured and its benefits thus earned by right, at least creates more self-respect than either of these alternatives.

<sup>2</sup> *The Doctor's Dilemma*, Preface.

### *Trade Unions, Works Councils, and Co-determination*

The more political aims of Labor (on those of its main political arm, the Social Democratic Party, pp. 670-71) have traditionally concerned socialization, particularly the nationalization of key industries, and more recently a share of Labor in management (the so-called "co-determination" issue). The latter implies at least a soft-pedaling of the former aim, because it means share in the management of still privately owned enterprises. Actually, while the main political organization of Labor, the SPD, still insists on nationalization (but with the significant qualification that the nationalized enterprises should be run by bodies composed of trade union, co-operative, and municipal representatives rather than centrally by the state), the trade unions now stress participation in private management. The trade unions used to be tied up with political parties and exercised their political influence chiefly through the SPD and the Center Party; now, in Western Germany, they are united in one over-all and officially unpolitical "German Trade Union Federation." Since this means being backed by the SPD as well as the left wing of the CDU (Communist influence is by now negligible) the unions had to look for a policy on which both these parties could agree; they found it in the demand for "co-determination."

"Co-determination" has its roots in an older institution, the works councils (shop or factory committees) established early in the Weimar period. These councils, elected by workers and employees in all larger enterprises (usually on the basis of party lists), had as their main functions participation in matters affecting workers directly, such as adoption of factory rules, dismissals, and so forth. Since 1945 there has been a demand to extend such participation to general matters of management, at least in questions affecting workers and management alike, such as a change in the nature of the enterprise, mergers, and shut-downs. Earlier *Land* laws (like that of Hesse in 1948) tended to confer such co-determination functions upon the works councils. Following the pattern of the Allies, when they set up a temporary trusteeship management for the Ruhr industries, a recent



(1951) federal law gives Labor a co-determination right in the larger coal and steel enterprises by having the supervisory boards (which, in contrast to the boards of directors, are in charge of general policies) composed of representatives of Labor and stockholders (owners) on an equal basis (5:5, with one "neutral" eleventh member). Labor members partly represent trade unions and partly the workers of the particular enterprise. Labor now seeks an extension of this system to other industries and expects a new type of economy and society to rise from the innovation. Management, on the other hand, is apprehensive of losing its control over the direction of industrial affairs ("cold socialization") and also fears that not the workers as such but the trade unions as a vast, "vested-interest" organization, will dictate economic and social policies in Germany. Experience will show whether these fears or Labor's expectations are justified. Prior German experience (like recent French experience, p. 401) renders it somewhat doubtful whether Labor in practice will exercise much influence. Works councils in the Weimar period had the right to delegate one member to the supervisory boards of corporations, but actually these delegates did not even get access to important information. On the other hand, it is conceivable that Labor and management, without major conflicts, will be able jointly to run the enterprises on the traditional basis of high profits, wage improvements, and "the consumer take the hindmost" (in the form of higher prices).

Over this issue, trade unions in Western Germany have soft-pedaled what in general is their chief concern—wages and similar work conditions. German unions traditionally have followed uniform policies in this respect rather than trying, individually or locally, to gain favors for this or that group of Labor. There are no prohibitive "initiation fees," no "racketeering," no "bosses" (in the familiar American sense) of local or regional or functional unions. Like German parties, they are under strong central leadership. There is no "closed shop," though actually most workers in the key industries *are* organized. When unions bargain collectively with employers (or, customarily, with employers' organizations), their collective agreements were extended to all works contracts in the re-

spective industry. If Labor and employers could not agree, the state could intercede and render an obligatory arbitral decision. These devices, however, have not yet been reintroduced into the Western German system of labor relations.

In Eastern Germany, the Free German Trade Union Federation (FDGB) is neither "free" nor a "federation," but strictly centralized and SED-controlled. In the public sector of the economy its functions are mainly propagandistic, but in the private sector it still has bargaining functions and in actual practice it is used as a club over the heads of owners and managers. Strikes are practically outlawed, since they require consent of the FDGB leadership. Workers are kept in line through a system of piece wages and incentives, including a German version of Stakhanovism (cf. p. 517). Late in 1951 compulsory registration for all able-bodied men and women was decreed, foreshadowing labor conscription. Strangely enough, this control of Labor has resulted in the return of some Germans, chiefly skilled workers and technicians, to certain satellite countries which only recently expelled their German minorities.

### III. PROBLEMS OF BUSINESS STRUCTURE AND AGRARIAN REFORM

#### *The Traditional System*

Western Germany's economic capital today is Düsseldorf in the Ruhr. Here are the headquarters of most of the big corporations which have dominated Germany's economic life for nearly a century. In its business structure, German economy has been characterized by concentration of capital in giant enterprises (usually referred to as "trusts," or combines), and the elimination of "free market-competition" among them through cartel arrangements. Thus, in 1939, six big corporations controlled 90 per cent of the Ruhr steel production and two-thirds of its coal ("captive mines"); the huge I. G. Farben combine had a near-monopoly of German chemical production. The effect was, not mass production, but high prices for fewer buyers; a vested interest in armaments production and a consequent tie-up with militaristic and expansionist forces; and fear of any kind of economic

reform. In contrast to Britain and America, big business in Germany has traditionally backed antidemocratic forces. It has always used its economic power for a political defense of the business *status quo* and for opposition to reform. Government has generally supported this business structure. No inheritance taxes, or very low ones, kept large fortunes in few families; except for some feeble and unsuccessful attempts under Weimar, cartels remained undisturbed, and the state assisted industry through subsidies, for which business clamored, particularly in times of depression. While public ownership and management of industries has been widespread in the local level (above, p. 713), there has been little on other levels, except for the railways and communication.

### Postwar Developments: Western Germany

#### IN INDUSTRY

In Western Germany this essentially oligarchic structure of business has been largely retained. Allied policies did not affect its roots, and German policies now seek to uphold and strengthen it. Denazification scarcely touched the upper layer of the economic hierarchy; the very few "name" figures who were sentenced as war criminals by Allied courts were considered victims of alien persecution and their places were kept open until their recent pardoning and release. While the failure of denazification in this domain was chiefly due to the British (most industries and industrialists being in their zone), Americans forestalled nationalization measures, which Germans, in some *Länder*, at first seemed ready to undertake. Military Government vetoed them on the grounds that such problems were national in character and had to await federal regulation. They were deferred until a (basically conservative) federal government had been formed. On the other hand, Allied policies at first seemed to favor "deconcentration" of industry, in the sense of splitting up giant holdings, as well as de-cartelization. Except for I. G. Farben and the Ruhr steel and coal enterprises the result has been negligible. These exceptions, of course, are important. But it is doubtful that they will be permanent. In the case of I. G. Farben it seems that three still very large cor-

porations will in the main take the place of the combine. In respect to Ruhr steel and coal twenty-five companies were formed with shares held in trust, but with final reorganization left to the German government. Under this plan, former owners are likely to reacquire their holdings; the former managers have been kept as "trustees," and from what can be seen so far, secret cartel arrangements are likely to tie the formally deconcentrated enterprises together as in the past. Whether Labor's influence, through its newly gained right of co-determination, will work against such tendencies is doubtful. In Germany, Labor has traditionally been in favor of sharing the benefits which accrue through concentration and cartelization. Of course, if the Social Democrats should ever come into the control of the federal government, nationalization of these and other industries would be on the agenda.

#### ECONOMIC POLICIES

As for economic policies in general, the present Western German government is wedded to the principle of "free economy" in the sense of non-regulation of and non-interference with economic affairs. This policy rendered possible the great and sudden boom after currency reform in 1948 (when the present *Deutsche Mark*, or DM, replaced the inflated *Reichsmark*). But it also meant a sudden crop of luxury stores, night clubs, and fancy restaurants instead of planned residential building for millions still forced to live in squalor and rubble. Of sixteen million dwelling units in Germany an estimated two and a half million were totally destroyed, and four million in part. One result of this policy has been a great discrepancy in the income of the upper and the lower strata, which, while perhaps less dangerous in prosperous countries, may easily lead to unrest and political radicalism where the lower classes are close to the subsistence level.<sup>8</sup> A more positive price and investment policy or a public works program might have done something more for housing and the production of mass consumption articles. Absence of positive policy has been particularly grave in regard to the problem of the "equalization" of war losses, that is, the fail-

<sup>8</sup> See table on Distribution of Income, below.

ure, so far, to compel those who, happily and largely fortuitously, survived war and postwar years without major pecuniary losses (or were even profiteers), to share the burden with the less fortunate who lost their properties through bombing and their savings through inflation or investment in now worthless Reich bonds. Related to this is the problem of the economic integration of the refugees. These, generally, are still the "disinherited" among Germans, outside of the normal economy, and in part still forced to live in barracks. Unemployment, which since 1948 has frequently reached two millions, has been particularly high among the expellees, and here, again, among the white collar workers and professionals. What such a situation may foreshadow is clear to any German who remembers 1930 and following.

would solve only a relatively small part of the problem of settling such persons, even a small contribution would be beneficial.

What happened was that the *Länder* were left to grapple with the problem. On Allied insistence, and under their continued prodding, most of them proceeded to enact land reform laws; these laws, generally, provided for expropriation, with full compensation, of specified percentages of land holdings in excess of a certain size. But after the passage of the laws the owners stalled, and the attitude of the authorities charged with carrying out the program is, perhaps, best illustrated by the statement of a Bavarian official, who publicly declared that such reform was a matter "not for today or tomorrow but one for years and decades." An American expert has calculated that it would

Number of Gainfully Employed West Germany, 1950			Average Monthly Income, 1950	Overall Yearly Income
<b>Employees</b>				
Workers	10	million	230 DM	28 billion DM
Employees	3	"	300 "	11 " "
Civil servants	1	"	400 "	4 " "
	14	"	250 "	43 " "
<b>Independents <sup>1</sup></b>				
	3½	"	660 "	30 " "
<b>Total</b>	17½	million	340 DM	73 billion DM

Note: This table does not include the large number of publicly assisted persons and their generally low income. Officially, one DM rates about 25 cents, but its actual purchasing power is greater than this would indicate.

<sup>1</sup> Including self-employed peasants.

#### FAILURE OF LAND REFORM

The absence of significant changes in economic structure and policies has been particularly striking in the agrarian field, where the Allies made a considerable effort to achieve long-overdue reforms. This problem has been solved in a fashion in Eastern Germany where it was most urgent (see below), but an alliance of vested interests and bureaucracy has wrecked reform in Western Germany. Opponents of land reform have objected that parceling out of large estates to small-holders would not raise over-all agricultural production, and that in any event the number of large holdings in the three Western zones is too small to solve the problem of land-hungry peasants, agricultural workers, and potential refugee settlers. But the point is not, or not chiefly, to increase agricultural production but to provide land, a home, and an occupation to persons who are now without them. And while it is true that land reform

take five centuries to carry out land reform at the present rate of "progress." Rather than hundreds of thousands of new settlers there have been only a few thousand so far.

#### Postwar Developments: Eastern Germany

In all these respects policies in Eastern Germany have been the opposite. But their "positive" features have been canceled by their totalitarian implementation. The big land holdings of the *Junkers* were divided among a large number of small peasants. At the partition politics prevailed over background and training, and the individual farms were kept so small as to make the new peasants dependent on the state. Collectivization on the Soviet pattern (p. 509) has not yet taken place, but control over the individual owners is as tight as can be. It is exercised through production controls, compulsory delivery quotas, and especially the trac-

tor stations (Machine Loan Stations) which form the new economic and also the cultural center of the countryside (as in the Soviet Union, p. 511). In addition to some 700,000 small landholders, who own 60 per cent of the acreage, there are some 60,000 "kulaks" who have about 30 per cent of the land (the remaining 10 per cent is publicly owned), and who are harassed by the authorities. Politically, they are under the domination of the SED-controlled "Peasants Mutual Aid Associations," which now are also absorbing the former agricultural co-operatives. Peasant backing of the SED, which was apparent in the earlier elections, seems to have vanished under the impact of the coercive policies of the regime and the impossibility of producing enough beyond what has to be delivered to the authorities.

Industry is completely planned in Eastern Germany, and almost completely nationalized. But "nationalization," paradoxically, has in part meant "denationalization," for there are two types of "nationalized" industries. Side by side with enterprises owned and managed by *German* authorities (above, p. 700), there are "Soviet corporations," that is, enterprises owned by the Soviet Union, and run by Soviet managers, that work for Soviet profit (particularly reparations). These are mainly found in the

optical and chemical industries; the other public enterprises are chiefly in heavy and machinery industry. The third sector of the economy, that of private ownership and management, is rapidly declining; even in retail trade the large state chain of stores predominates. What remains of private business is kept in line by investment and credit controls.

### Summary

Thus the rigidity of society and economic structure which marked Germany has not been affected basically by what has happened since 1945. In the east of Germany the old structure has been replaced by a new manipulated society, whose establishment, temporarily, involves somewhat more social mobility than usual; but with its new educational monopolies it is in the process of creating new but equally definite class or caste lines. In Western Germany, the lines are still drawn on the old pattern, although unsolved problems, such as that of the unintegrated refugees, seem to undermine it. In both East and West two essential requirements of modern democracy, a broad self-reliant middle class and a degree of social mobility are absent.

## CHAPTER 10

# Germany and the World

### I. THE GERMAN POTENTIAL

One of the foremost questions on the world agenda today concerns the role Germany will play in future world relations. Will Germany rise again to the stature of a world power? Five years ago this question would have sounded absurd. Germany's bold bid for world domination had ended in disaster, and the nation seemed shattered forever. The powers that so often had suffered from German aggression seemed united, if on nothing else, in a determination never to let that country rise again. In 1945 it would have been unbelievable that munitions-maker Krupp—owner of the firm which for three generations had been the symbol of Germany's will and power to arm to the teeth—after being sentenced as a war criminal for employing and maltreating forced labor, would be free again a few years later, and restored to his properties. Nor could one have believed that Germans, disarmed, compelled to foreswear forever the idea of war, and informed that their reacceptance into the community of nations depended on proof that they had mended their warlike ways, would shortly thereafter be secretly armed by one camp, and by the other begged to arm themselves; or that German generals, symbols of German militarism, would be approached by Allied generals to plan common military measures.

What does all this shape up to? Will Germany be Second Republic or Fourth Reich? There are those who see a deadly parallel between what happened after World War I and what is happening now. Then, too, former Allies who had put down a domineering Germany in a common struggle, fell out among each

other. They allowed Germany to rise anew, until again they had jointly to fight it. Many Germans, no doubt, bank on the possibility of history repeating itself. Whether this is likely depends on Germany's actual power potential, the attitudes of its masses and its elites, and, above all, on the policies of the major powers toward Germany.

### *Effect of Defeat on German Power Potential*

To talk about Germany's power position in any but negative terms would likewise have seemed absurd in 1945. But the appearance of ruin and ruins was misleading. There still existed most of Germany's natural resources, most of its industry, and, above all, the skills and the will to work of a highly qualified population. Post-World War I experience should have shown that disarmament, occupation, even cession of territory hardly affect a country's permanent potential. Physical destruction, dismantling of factories, and similar measures may even prove to be a blessing in disguise to the affected country, because they may compel it to modernize its plant and render it more efficient.

Of course, not everything has been to Germany's advantage. There is the loss of the Saar region, with its coal and steel, and of the Upper Silesian coal mines; but the heart, the Ruhr, is still intact, and in 1951 there loomed the possibility that German coal and steel would play a leading role in a pooled Western-European economy under the Schuman plan (see above, pp. 415-16). In that year the implications of the plan were not yet entirely clear. Would it mean a super-cartel under which leading Ger-

man and French industrialists would dominate the market, or a means to bring them under public control? Would it spur the competition among the nations concerned, or lead to West-European integration? Certainly, however, as long as the industries and the areas where they operate were not actually taken out of the territorial sovereignty of the country, they would continue to be available to it as arsenals in case of war; and no international agreement and no joint "high authorities" would be able to prevent that country from so utilizing them.<sup>1</sup> Since, contrary to France's original wishes, the Ruhr region was not "internationalized" in the territorial sense (on the more limited powers of the "Ruhr Authority," see above, p. 655), it remains part of Germany's arsenal.

More serious for Germany's potential are the detachment of the Eastern zone and the loss of the territories east of the Oder-Neisse line. The country's present split into East and West, in addition to what it means to the economic strength of each part, is a political liability. Germany has to regain unity before it can speak with one voice. The loss of the provinces east of the Oder and Neisse rivers implies primarily the loss of food-producing areas (above, p. 578) and, consequently, a greater dependence on food imports than ever before in German history. Increased exports seem to be the only long-range solution of this problem. As an exporting country Germany, for fifty years, had enjoyed great advantages. The high quality of its products as well as cartel arrangements gave Germany a strong competitive position, which Western Germany, in 1951, seemed to be regaining. But dependence on exports also means increased dependence on world trade developments and the commercial policies of other nations. And in war it means less self-sufficiency than ever before.

### *World Powers and German Power*

Moreover, because of the shift of the world power-balance away from Europe toward the United States and the Soviet Union, Germany has lost relative power in the same way that

<sup>1</sup> On the possibility of more genuine internationalization through pooled defense measures, see below.

Britain and France have (pp. 204, 404). Like these two powers, Germany in the foreseeable future can no longer hope to be in the first rank. On the other hand, its geographical location and its industrial capacity may conceivably enable it to play an important role in the balance between the two super-powers and their allies. Its presence or absence in either camp may indeed determine the world balance of the future. An independent Germany would thus enjoy a bargaining position which it could exploit in order to regain influence in world politics. Germany might even hope to emerge as so powerful a partner in an Eastern or Western combination of powers as to regain hegemony over Western and Central Europe, either as the European center of a Red World, or as a kind of European satrap of a world-dominating United States. If this seems too fantastic an aim to impute to Germans, one has merely to remember the even more ambitious aims of Nazi Germany. On the other hand, Germany's geographical middle position and its possession of important world resources are equally great liabilities. If the French fear a war between East and West because they feel sure their country will become a battleground and possibly the victim of Soviet occupation (p. 415), Germans have even more reason to be apprehensive because for them it would be a fratricidal war. In preference to playing a world role Germany might therefore try to keep out of world politics and resign itself to a more modest role, like that of Sweden or Holland after their seventeenth century greatness or, to some extent, France since Napoleon and Britain since 1919 or 1945. Germany might then become a stabilizing factor in world relations with a vested interest in peace. What are the attitudes of the German people on these vital questions?

## II. GERMAN ATTITUDES

Under prevailing conditions in Germany one has first to ask, which, or whose, attitudes are representative? Eastern Germany, in this connection, may safely be discounted. The masses

are captive,<sup>2</sup> and the ruling group has no choice but to follow Soviet opinion and policy; this group is not even permitted any longer to stress particular "German" interests within the framework of Soviet policy. Any such "Titoist" (that is, nationalist) "deviation" is well taken care of by the Moscow-subservient top circle of the Socialist Unity Party. This subservience is illustrated by the Democratic Republic's recognition, by formal treaty with Poland, of the Oder-Neisse line as the definitive German boundary. Only in the West can there be a genuine, spontaneous expression of attitudes and opinions. They reflect traditional German uncertainties about these issues as well as the complicated situation of the present.

### *Principles of German Foreign Policy*

In contrast to the British, French, or Russians, with their long history as nation-states, Germans have not even been always sure that they should, or could, form a political unit. Centuries-old disunity and impotence drove some of them (including Goethe) to the pessimistic conclusion that they were incapable of ruling themselves as a nation. Many Germans left their country and emigrated beyond the seas, but without ever establishing a "dominion across the sea" on the British pattern. At home they have always disagreed about the form and role of their state. Should it be a nation-state like others, or a "Reich," with its mystical connotation of a larger unity of several nationalities, with a European "mission"? The medieval Empire was meant to integrate the Western-Christian nations in a kind of *corpus mysticum*. But its actuality was feeble, and its modern revival, since 1871, turned out to be less "mystical" than intent on power politics and hegemony. In the end, Hitler's "New Order of Europe" was a mere façade for an ultra-imperialistic policy. Thus Germans, in their history, have been torn between an urge to give themselves up to "higher tasks," and to dominate other nations. The pendulum of their attitudes has swung from an often utopian political idealism (cosmopolitanism around 1800, integral pacifism after World

War I, or some "international solution," like the European Union, as a panacea for all problems today), to utterly cynical "realism" (*Realpolitik*). Few of them ever learned the more modest but also more difficult job of living as "good neighbors" among equals. True, such an attitude was rendered difficult by Germany's history (belated unification) as well as her geographical location in the heart of a continent that was until recently the center of world politics. This meant living between an East that had never known a tradition of political liberties, and the liberal-humanitarian West. Germans have been periodically attracted and repelled by these poles, oscillating between authoritarianism and democracy, romanticism and enlightenment, cool utilitarianism and cloudy mysticism. This oscillation has been reflected in Germany's foreign policy.

### *Eastern Orientation*

The Prusso-German leading groups, in particular the *Junkers*, saw in the autocratic regime of the Tsars the backbone of "order" in Europe, the ultimate protection against the "anarchic-liberal" West. In the nineteenth century this attitude was translated into first Prussia's, then Bismarck-Germany's alliance with Russia. William II abandoned the "wire to St. Petersburg," and since he did not replace it with a Western alliance but rather with Germany's "splendid isolation," this break with the East was later blamed by many for Germany's defeat in a two-front World War I. In the Weimar period "Eastern orientation," despite the transformation of Russian monarchical authoritarianism into Bolshevism, was advocated by influential Rightist circles, including leading *Reichswehr* generals and diplomats who hoped to find in Russia the lever with which to raise defeated Germany against a hostile West. Even among the Nazis a "geopolitical" school of thought dreamt of a huge "Eurasian" bloc, formed by Germany, Russia, and Japan, which would turn against the West and efface the Western empires. This policy, of course, was submerged under Hitler's ambition to destroy both West and East. Today, outside of the leadership of the Democratic Republic and the numerically insignificant

<sup>2</sup> In case of actual war, of course, their attitude may become important. Could the Soviets rely on their Eastern German divisions?



Communists in Western Germany, Eastern orientation in the sense of a definite alliance with the Soviets is advocated by very few Germans. Some industrialists may hope to profit from increased East-West trade, or even dream of playing a leading role in a combination of an industrialized Germany and a Soviet Union depending on Germany's industrial capacity; some generals and some ultra-nationalists, motivated by uncompromising hostility toward the West, may expect Germany to regain power by turning toward the East. But one may safely assume that most of those who talk of an Eastern tie-up do this rather to play off the East against the West and to gain concessions from the West than with any serious idea of becoming allies of the Soviet Union.

### Neutrality

The rejection of the East, however, does not mean full acceptance of the West by Western Germany. Germans, primarily, tend to be neither "pro-West" nor "pro-East," but "pro-German." And since the desire for German unity (that is, reunification with the Eastern zone) is among the strongest motivating forces in Germany today, many Germans are ready to go to any lengths to achieve this aim. They believe that their country stands to gain most from a policy which, all over Europe, has become known as "neutrality." "Neutrality" oppose a political and military line-up with any of the two super-powers and hope, in this way, to form a "third force" which will be in a position to mediate between the two hostile camps and thus to prevent a third world war, or, if war comes, to stay out of it. The German neutrality's slogan *ohne mich* ("count me out") may be the expression of their resentment at being supposed to become new "Hessians" in the pay of their enemy of yesterday, but for many it also reflects a genuine hope that, by making themselves "small" and letting the big ones shoot "from one center into the other center," Germans may actually escape involvement, even in a major war.<sup>3</sup> But their main hope is that Ger-

many, through peaceful arrangement between the Western powers and the Soviets, will be reunited as a "neutralized" buffer-state. The country would be evacuated by both Western and Soviet troops, have what most neutrality hope would be a democratic, non-Communist central government issuing from free elections in all zones, and be given an international status of neutrality which the powers would respect in peace and war.

Obviously this would mean the best of both worlds for Germany: Unity *and* liberty, sovereignty *and* permanent peace. No wonder that the idea has attracted a considerable following among all German classes: Many in the churches, and especially among Protestant leaders (in addition to the general reasons, reunification would give Protestants numerical superiority again); pacifists who see in present Western policies a danger of war; some socialists out of concern for their fellows in the Soviet zone (and because they expect to beat the Christian Democrats in an all-German election); anti-Nazi democrats who believe that only neutrality offers Germany a chance to escape a new militarism; and many "unpolitical" Germans deadly afraid of war and destruction. In 1951 this attitude proved so strong that Germany's integration into a rearmament West had to be postponed. And since neutrality comprises a large proportion of whatever sincere liberal democrats and antimilitarists there are in Germany today, Allied policy should seriously consider what may be salvageable in this program despite its obvious utopian elements.

### Western Orientation

Still, a large number, probably a majority, of Germans reject neutrality, either because they believe its goals to be unattainable or because they believe that it involves a danger of eventual Communist penetration of Germany. They prefer present liberty to a unity which could only be attained at the price of Communist rule or influence in a reunited Germany. Having no other alternative, the non-neutrality Germans thus turn toward the West. But for vastly different reasons, and with greatly divergent

<sup>3</sup> A more cynical reasoning is reflected in the question: "Why fight for the West? If we do, and the Russians capture us, we will be shot; if we don't, and the Americans capture us, we shall be given a good job."

policies. There are those, the most radical among them, who would be ready to go to any lengths to regain, with the help of the West, Germany's previous status and power, its unity and its lost territories, even if this means war against the Soviets at the side of the Western powers. Such sentiment may be found among expellees who want to go "home," neo-Nazis, or other nationalist extremists. This group, however, is still relatively small. Most "Western-oriented" Germans, including the official spokesmen of all major parties and groups, while opposing neutralism as "appeasement" of the East, are yet very apprehensive of any "strong" policy which might provoke a war in which Germany would become a battle-field. While agreeing with the West on the general policy of "containment," they are hesitant about the policy in practice.

#### ATTITUDES TOWARD WESTERN EUROPEAN INTEGRATION

As long as the Allies, particularly America, cannot offer better guarantees of military protection, many Germans oppose the remilitarization of Germany, including the establishment of a German army and its integration with the Western defense system. SPD leader Schumacher, in particular, has strongly advocated staying out "as long as Germany is not granted full equality and sovereignty," thus satisfying both nationalistic and neutralist German leanings.<sup>4</sup> This SPD attitude has gone hand in hand with opposition to any stronger political and economic integration of Western Germany with the remainder of Western Europe. Such integration has been the major foreign policy plank of nonsocialist groups and parties, including Adenauer's CDU and, in this way, has become the official policy of the Western German government. This policy constitutes a significant change in the traditional attitude of the German middle class and its political representation, away from old-style nationalism, and toward a European "regionalism," which involves giving

up "sovereignty," at least in the economic sphere. Some more mystically inclined Germans expect a new empire of Charlemagne to rise out of a Western union; others, more politically inclined, favor it because of the present religious and political affinity of the major Western regimes with Western Germany. Both France and Italy are strongly Catholic; Christian Democrats rule in Italy; and all of these countries are wedded at least in principle to a "free enterprise" economy. Reunification of the two Germanies, on the other hand, would render Germany predominantly Protestant again, and might lead to Social Democratic political control. By the same token, and quite contrary to its internationalist tradition, the SPD has opposed Germany's entry into the Schuman Plan organization and (like Labor in Britain) has emerged as the chief protagonist of old-fashioned "sovereignty." It is motivated by an apprehension that its own socialist policies might be hampered by a European regional organization in which the "capitalists" would be in a majority. It feels uneasy in a company of predominantly nonsocialist countries, which are all more or less dependent on capitalist and anti-socialist America.

Thus the Western Powers are confronted in Germany with very different attitudes. The situation is more favorable to the West than in France and Italy because of the absence of a powerful Communist party, but in other respects it is more complicated. The division of Germany makes for a strong neutralist sentiment; nationalist resentment makes for hesitancy in espousing the cause of former enemies wholeheartedly; and the presence of Soviet troops in the center of Germany causes even Western-oriented Germans to shy away from commitments. While the general political, religious, or doctrinal sympathies of non-Communist Germans are with the West, they are so for different and frequently opposite reasons. The liberal-democrats and socialists fear the clerical, or economically conservative, or politically neo-fascist implications of closer integration. Most Germans realize the necessity of the alignment, but to many it is at best a *mariage de convenance*.

<sup>4</sup> Early in 1952 the government's plan to draft the age group of 19 to 21 for German divisions of the "European army" seemed to run into the additional difficulty of a test of its constitutionality in the Constitutional Court (article 4 of the Bonn constitution provides that "no one may be compelled against his conscience to perform military service as an armed combatant").

### Territorial Questions

As compared with these vital issues, territorial and boundary questions, which so often in the past have led Germans into wars, against French, Danes, Poles, Russians, are relatively less important now. Two lost wars seem to have convinced most Germans that the problem of Alsace-Lorraine is definitely settled in favor of France. Most Germans were resigned to this after World War I, and only ultra-nationalist propaganda kept the issue alive. But most Germans are *not* resigned to the loss of the Saar region, now a kind of protectorate of France, which the French seemingly hope to turn into a second Luxembourg. The Saar people themselves, after 1945, seemed ready to accept the new status for reasons of economic well-being, but they now appear veering slowly to their traditional sentiment for union with Germany. Most Germans seem to accept the independence of Austria. That country, whose union with Germany was advocated after World War I by many of its own and Germany's progressives, seems now lost to Germany forever because of Hitler's policy of force and rape. The Danish frontier should not offer a serious problem. As long as Germans grant decent treatment to a bona fide Danish minority of hardly more than 100,000 in North Schleswig, the Danes themselves will not insist on territorial changes.

But the "Eastern question" is still open, despite the fact that the provinces Germany lost in the East (Silesia, East Prussia, and so forth) no longer contain significant German populations. As long as their former German inhabitants, as well as former German minorities in the countries outside of Germany proper (such as Sudeten Germans of Czechoslovakia and others), constitute unintegrated refugee groups in rump-Germany, they and many other Germans will continue to regard these lands, and possibly even additional territories, as *terra irredenta*, unredeemed territory to be regained through diplomacy if possible, through power politics and war if necessary. Late in 1951, a corresponding claim was registered officially by the Adenauer government. Here lies a great

danger to a future German peace and a peaceful future Germany.<sup>5</sup>

### III. ATTITUDES AND POLICIES OF THE POWERS

#### Soviet Policies

Which of these German attitudes will prove decisive depends to a large extent on the policies of the major powers toward Germany. The development of Allied policy toward Germany from 1945 to the establishment of the "two Germanies" has been traced above (pp. 645-46). Today the German problem has become a part of the world problem of East *vs.* West. Soviet policy toward Germany is dictated by the general line of Soviet ideology on world affairs, of which there are vastly differing interpretations (see pp. 556-57). Whether one interprets it as aiming at world conquest, or merely at protecting Soviet security, as dictated by Russian national power considerations or by the revolutionary aim of spreading the gospel of Communism, one thing is certain: Germany is in the very center of Soviet foreign policy, perhaps more so than any other region in the world. It is likely that the Soviets aim ultimately to control all of Germany. But at present their more immediate aim seems to be to deny Western Germany to the West, above all militarily. The Soviets, therefore, have been emphasizing time and again a return to the original Potsdam program, with its aim to keep Germany demilitarized, and the reunification of Germany. They have been co-operating with groups favoring neutralization of Germany, and have even intimated that they might be ready to give up their present control of Eastern Germany in return for Western evacuation of Western Germany. In view of the apparent Western unwillingness to enter upon such arrangements, the Soviets in 1951 shifted emphasis to building up

<sup>5</sup> The danger of irredentist policies merging with neo-Nazi imperialism and racialism is evident from such incidents as the booing, at a refugee convention, of a speaker who doubted the legality of the Nazis' incorporation of the Sudeten region into Germany in 1938, and the wild applause which greeted a former Nazi author, who called the Slavs "born barbarians."

Eastern Germany as an economic workshop and military bastion of the Eastern bloc. But by the end of that year there was once more an emphasis on "unity." By that time they had maneuvered the Western German government and the Western Allies into discussing over-all German elections.

### **Western Policies**

#### **ADVANTAGES OF WESTERN GERMAN INTEGRATION**

Western, and particularly American, reaction to these Soviet policies has for some time been to follow the opposite line and do whatever the Soviets seem least to want them to do. In view of the Soviet aim to reunite Germany it has seemed natural to try to integrate Western Germany as firmly as possible with the Western system of economy and defense and set it up as a strong bulwark against Soviet aggression and Communist subversion. This policy appears both logical and inevitable if Communism is to be "contained" within the limits of power it has reached so far. Moreover it seems to provide an opportunity to create that which Americans (and many Europeans, including Germans) have long considered as necessary if Europe is to be viable, politically and economically, namely a united Europe in the place of the now obsolete nation-states and their economic and political boundaries and antagonisms. It is true that the political organization established for this purpose, the so-called European Council, has so far proved unable to overcome ancient antipathies and controversies. But efforts in the functional realms, the Schuman Plan for iron and coal, similar plans for fields like agriculture and transportation, with the supernational organization they envisage, promise to create a genuine regional community of interest, which in the course of time might lead to genuine political integration and the overcoming of age-old national antagonisms, such as the one which so long and forcefully opposed Germany to France. A new United States of Europe thus looms as the result of a policy of German integration with the West. If economic arrangements should prove inefficient to wipe out

national interests, defense integration would seem to be a better guarantee against any one power exploiting the new arrangements for its own power purposes. Under present plans, military integration of Western Europe would proceed so as to avoid individual military establishments and armies and, above all, would provide for specialization in the contribution of the individual countries, so that no one country, such as Germany or France, would be militarily "self-sufficient" any longer. If, for instance, Germany produced and contributed the tanks (or, better, the jeeps and lorries), while others made the rifles, or guns, or planes, then each would be dependent on the other for defense.

#### **DANGERS AND HESITANCIES**

Even among the Western countries, however, there has developed a good deal of hesitation about these policies. First of all they would involve the integration of half a Europe only, with only half a Germany in it; the other half would be outside, and the establishment of a larger bloc to counter another large power bloc would merely enhance the danger of war. Many point out that the attempt to rearm Western Germany might provoke the very war which it is intended to forestall. The Soviets, calculating that time henceforth favors the West, might attack. Experience in two wars may have created in Russians the same kind of fear and security neurosis regarding German military might that it has in the French, and they conceivably fear a new German army (even if integrated in a coalition army) more than any other combination of forces.

German military integration, moreover, would not appear feasible without granting West Germany equality and as much real "sovereignty," that is, power to decide internal and international issues for itself, as any member of an integrated Western Europe can still have. The French, and more recently the British, have come to consider granting Germans such independence with misgivings. Already the Western German government, in matters like distribution of coal and similar affairs, has shown nationalistic rather than co-operative leanings.

An independent Western Germany, they fear, might emerge powerful enough to embark on uncontrollable policies; it might draw the other Western powers into a war with the Soviet bloc in order to regain the Soviet zone and the lost territories in the East; or it might make a deal with the Soviets and, in return for reunification by the grace of Moscow, promise the Soviets neutrality in an East-West conflict. After a victorious war against the Soviets, Germany might become a hegemonic power again. Even without such a war, rearmament might revive its militarism and authoritarianism and destroy whatever democratization has occurred. It might lose the West the backing or sympathy of large (non-Communist) masses in countries like France, Poland, or Czechoslovakia, which fear a reborn German power. In the East, in particular, a remilitarized Germany might enable the Soviets to utilize the latent fear of Germany to counteract anti-Soviet sentiments in the satellite countries and even in the Soviet Union itself.

### **A New Approach?**

It may well be that these fears are exaggerated, especially if the danger of German neo-imperialism is checked by military integration which renders independent power impossible. But even so, the present Western policies perpetuate rather than solve the great problem of East versus West of which German partition into East and West is a symbol. Therefore, it is pointed out, should not the "position of strength" which the West has gained or hopes to gain in Europe be used for another attempt to come to terms with the Soviets? In particular, should not the Western powers be ready to negotiate an agreement on Germany?

No arrangement would be meaningful which did not do away with the present sore of partition and did not include reunification of Germany. This, in turn, would mean, if not "neutralization" in the legal sense, at least evacuation by foreign troops and thus Western German "disintegration" from the Western

European defense system. Technical difficulties of setting up a uniform government for Germany would not appear to be unsurmountable, if all concerned are really ready to come to an understanding. (This would of course presuppose the dissolution of the SED terror machine in Eastern Germany and an agreement about such things as free elections and about what to do with such basic Eastern German changes of economic structure as agrarian reform.) If this means taking too much for granted as far as the Soviets are concerned, the collapse of the negotiations would show who was to blame. More serious would be the inevitable risks which the West would have to take. Among these, the possibility that Communism would attain control in a unified Germany through democratic processes seems remote, except in the case of the complete economic collapse of Germany. The gravest danger would be that the Soviets might try to use the arrangement merely to take over all of Germany later, either by direct military intervention or by staging an internal Communist *coup*, as was done in Czechoslovakia. The West would have to make it clear that any such attempt would entail immediate Western military intervention. Continued military integration of Western Europe, including the stationing of American troops in countries west of Germany, would therefore be necessary. Such "neutralization" of Germany in the political and military sense would still not guarantee its non-involvement if war should break out between East and West over a non-German issue. Germany, in the heart of Europe and with the resources of the Ruhr, would hardly be spared like another Switzerland. Neutralization might, however, prevent just such a general war from breaking out over the issue of Germany. No greater contribution could be made by Germany to enduring peace; through nothing else might the German people atone better for its past than through becoming a buffer and, eventually, a bridge, instead of being a bastion and eventually a battleground again.

# Conclusion

Once upon a time—under the Hohenzollern Empire—a simple cobbler got himself a captain's uniform and, at the head of a couple of soldiers whom he had commandeered, entered a little town in the province of Brandenburg. He ruled there for some time, with everybody, from the mayor downward, obeying his orders, one of which was to hand the cash in the city treasury over to him.

When he finally was found out, the saga of the "Captain of Cöpenick" became justly famous, and the town he had ruled became the laughing-stock of Germany and the world. Had one known what the story symbolized and signaled the laughter would have frozen on many lips. For it was not just a caricature of traditional German authoritarianism, and of German respect of established authority, particularly military authority; it also revealed a tendency no longer to question any authority. There had been no questioning of the cobbler's credentials; there was none in 1933. The outward symbol covered any contents.

Today, Germany is again under the shadow of the three trends which, in the past hundred years, have stifled her humanitarian, liberal, and democratic potentialities. The first and more traditional impediment has been authoritarianism; Germans have reverted to it time and again, and today, in a new form, it not only rules supreme in the Soviet Zone but is discernible in West Germany's re-established bureaucracy and the predominance of an executive which so far has paid scant attention to parliamentary institutions and the procedures of democracy. More ominous, secondly, seems to be the trend toward totalitarianism. It is not only, and not even chiefly, the failure of denazification and the absence of genuine reorientation, with the corresponding signs of neo-Nazism, which warrant apprehension. It is above all that Germany at present is in a state of ideological

emptiness, with *all* its traditions tainted by failure; none of the traditional values, including those of old-style authoritarianism, have *general* hold any more. There is the danger that out of this emptiness a new nihilism may arise, which, as once before, will be exploited by some totalitarian group. Confronted with the growing complications of modern society and modern government, many of us are inclined to throw up our hands and "let the other fellow do it," tempted to "escape from freedom" into the spurious "security" promised by some movement, any movement, and any ideology. Germans, one would assume, should be forewarned by Nazi experience and present Communist totalitarianism in the Eastern Zone. Yet they have tried, and found wanting, so many alternatives, including what they thought was democracy, that they are at sea.

Thirdly, the greatest impediment to democratic development today is the predominance in Germany of what one may call the "existential" issue, the issue of national existence and survival. Before bothering with democracy or authoritarianism, parliamentary institutions and individual liberties, the Germans have come to feel that they must have a nation-state whose existence, unity, and independence they can take for granted. In the nineteenth century it was the question of national unification that suffocated the cause of liberty and free institutions. Under Weimar it was the problem of Germany's national and international status, its "equality" with other nations, and its power which burdened the young democracy. Today it is hardly surprising to find the German people vastly more interested in reunifying their country, regaining sovereignty, healing the wounds of the last war and escaping the threat of a new war than in questions of constitutional processes and political and governmental institutions.

If this, to the outside observer, conveys an

impression of hopelessness, let us recall that not everything in German social and political institutions has been negative. The foregoing chapters have outlined what amounts to a balanced mixture of "assets" and "liabilities." Among the assets one would list the tradition of a capable, well organized, and uncorrupt administration (including administration of justice); a flourishing, diversified local government with a tradition of self-government; a system of social security which to some extent has prevented economic misery; and an educational system of high quality, not only on the higher levels but also in primary education. Against this one must list as chief drawbacks a usually authoritarian executive, overshadowing weak or inefficient parliamentary institutions; dissension among too many parties and the doctrinairism of opinion groups; bureaucratism of all organizations, including officialdom and political parties; and the class system of education, chief cause of rigid class lines in German society and one of the causes of economic inequalities and of the caste character of the civil service.

It is possible to imagine a situation in which the "assets" could be used to bring more democracy and liberalism in the Western sense into German public life without sacrificing what is valuable and, sometimes, unique in German tradition; a situation in which doctrinal splits would be moderated into useful debates between "government" and "opposition"; where rule-mindedness and authority-consciousness would be tempered by what is commonly accepted as reasonableness, while unreasonableness and arbitrariness would encounter spontaneous resistance; and where class and caste exclusiveness would yield to preference according to merit. Experience with postwar occupation policies and experiments has shown that any such "improvement," and especially any "democratization," must, basically, remain a German task; it does not lend itself to imposition from abroad. But it also shows that other nations can *support* indigenous trends and

forces by positive encouragement and, negatively, by discouraging or eliminating hostile trends and forces. For instance, while foreign intervention can never create by decree "initiative," it *can* suppress totalitarian propaganda, or prevent antidemocratic persons from occupying positions of influence. Even more can be done through economic policies.

Foreigners (and, frequently, the Germans themselves) have had three dominant though widely contrasting impressions of Germany: the Germany that is *Gemütlichkeit*, a certain homely way of life, often appealing to Americans who do not have but would like to have time for it; second, the Germany that means know-how and efficiency, appealing or disturbing to Americans, depending on how such skills were used; third, the Germany that is music, poetry, philosophy, the mainspring of culture and thought.

But Germany is not only beer-gardens and pigs' knuckles with sauerkraut; nor is it only the Leica camera and I. G. Farben, the Prussian general staff and the SS; neither can it be reduced to Schiller and Beethoven, Kant and Luther. A nation is not summed up so easily, and "nothing is easy in Germany" in particular, as one who should know, U.S. High Commissioner McCloy, has said. But even if Germany is a land of contrast and contradiction, that is better than if it were a country where all contrast and dissension was buried under enforced silence and conformity. Yet the development of Germany's potential good depends on a minimum of well-being and the gradual establishment of ways of life which can only flourish in peace. For Germany perhaps more than any other country the impoverishment and destruction of a new war would spell the end of the democratic experiment. Germans, these days, are fond of telling a story ascribed to Albert Einstein. The savant, asked which weapons he thought would be used in World War III, replied: "About this, my friend, I cannot enlighten you; but I *can* tell you how World War IV will be fought: with clubs and big rocks."





## GENERAL CONCLUSION

After a study of lands and political institutions so diverse as those of Great Britain, France, the Soviet Union, and Germany, it should be possible, if not to give final answers, at least to draw certain general conclusions about the role of government in contemporary society, and about the nature of democracy and of dictatorship, as well as about the validity of the charges against democracy which were raised in the Introduction. In so doing, we are carrying further, and perhaps deeper, the comparative method used throughout the book. It is well to remember that the great value of comparisons is that they demonstrate alternative ways of meeting particular problems. Today when newly self-governing countries like India are establishing their political institutions, such alternatives are ever-present in the minds of political leaders.

### THE ROLE OF GOVERNMENT IN CONTEMPORARY SOCIETY

The distinguishing feature of government in contemporary society is that it is universally accepted as an active force in the forming of economic and social conditions. Even in the United States, where there remains a much greater attachment than in Great Britain or in France to the idea that government should be only an umpire adjudicating the rules by which other forces in society compete, such governmental activities as the T.V.A., or price control in a period of inflation, are now accepted with relatively little question. In Great Britain, France, and Germany, as well as in the Soviet Union, government is looked on as an (or the) organizing power in society.

So much have we become accustomed to the idea of government as an active, positive agent in the direction of the affairs of our communities, we often fail to realize the significance of the change this idea represents. In the English-speaking countries particularly, the nineteenth century view of government was that it should restrict itself to the basic, and somewhat negative, function of maintaining law and order, acting only, as the half contemptuous phrase expresses it, as a "night watchman" or "police" state. The transformation of this concept of the state into the modern concept of the "welfare" or "social service" state is indeed a revolution.

Actually, however, this transformation in the role of the state is a by-product of economic and social changes which are themselves of revolutionary character. As we have seen, the French Revolution and the Industrial Revolution gave rise to a profound change in attitudes toward the individual and his place within the community. The French Revolution preached the equality of individuals, a doctrine which directly challenged the long existent, rigid social hierarchies of Europe; at the same time it aroused the sentiment of nationalism which exalts the community. Thus the individual was freed only to be merged into the group, into Rousseau's "general will" (p. 272). But if the French Revolution provided much of the ideology and spur for social change, it was the Industrial Revolution which provided the new circumstances in which change was inevitable. The new industrialism, with its new modes of production, opened the way for individual activity and created social mobility to a degree never before seen. Yet while industrialism stimulated individualism, particularly in its early stages, its own inner logic was towards mass production,

standardization, and vast economic units. Thus, as with the French Revolution, the tendency was to free the individual from the restrictions of the past only to fit him into new and larger entities. Thus the breakdown of traditional social and economic groupings produced the mass society characteristic of our time. In this mass society the equalitarian drive fermented change while large scale economic activity tended to promote a new social stratification.

In this new mass society the role of government, that is, the complex of institutions that have a monopoly of organized force in internal and external affairs, changed of necessity. The state, the organized political community, needed a certain degree of stability in the social order to maintain its own equilibrium; this required not only the adjustment of conflicting demands by different groups in the new social and economic order, but also the deliberate creation of certain conditions of social well-being demanded by the new doctrine of equality, insofar as these were not provided by the economic system. Thus inevitably government, as the agent of the state, was forced more and more to assume positive responsibility for the creation and distribution of wealth.

So far we have emphasized the common features among modern governments: the vast expansion of functions, the positive character of governmental activities, and the resulting increase in the number of men and methods to handle them. These features are as prominent, though not so extensive, in Great Britain, France, Germany, and even the United States as in the Soviet Union—because all industrialized countries, regardless of their ideologies, are subject to the same general pressures. What is of particular importance for our study, however, are the different ways in which these countries have met these pressures, and in particular the difference between the democratic and the dictatorial ways. For it is not what they do but the way in which they do it which differentiates modern governments.

## DEMOCRACY AND DICTATORSHIP

What distinguishes a totalitarian dictatorship is the fact that the power exercised by its gov-

erning group is unlimited and unrestrained, and that the authority of the regime extends into every aspect of the life of the individual, religious and cultural as well as economic and social. In contrast, the exercise of political power in a democracy is limited by a constitutional framework (written or conventional—see p. 25) which protects certain areas of personal and group life from governmental interference, and provides that governmental powers shall be exercised in accordance with known procedures. The simplest distinction to be made between these forms of government is between unlimited and limited government. Further, as the pithy phrase expresses it, "In democracies what is not forbidden is permitted, in dictatorships it is compulsory."<sup>1</sup>

Behind these differences, however, lie two sharply contrasting conceptions of the political community. The first, endorsed by both the Soviet and Nazi dictatorships, is that this community is an entity with a particular purpose of its own, which may be something quite different from the immediate purposes and desires of its members. This view is linked in turn to a belief in historical inevitability. Thus the Soviet leaders, believing in the materialist conception of history (see p. 424), determine policy in the light of this (supposed) key to the future. In classical Marxism, of course, the state was stigmatized as an instrument of oppression of the ruling class; Lenin foresaw it as an instrument of the working class in freeing itself from its oppressors. Stalin maintains that the Soviet state is a necessary protection of the working class against "capitalist encirclement"; at the same time, it is the instrument for building the socialist society, which history (at least Marxist history) proves is the form of organization most in accord with advanced modes of economic production.

National Socialism similarly had its *Weltanschauung*, or "view of the world" (see pp. 626 f.), from which could be deduced the course of history. Its emphasis was on racialism, in contrast to the Marxist stress on economic determinism. But in the general view that the purposes of the organized political community are far superior to those of the individuals who

<sup>1</sup> J. A. Corry, *Elements of Democratic Government*, p. 67.

compose it, there is little difference between Fascism and Marxism. Consequently, they both deny that there should be any limit on the exercise of political power on behalf of such a community.

Democracy does not deny that there may be meaning in history, but its advocates insist that there is no *one* meaning, and that there is no inevitability in history—because they believe men have the opportunity to shape their own future within the limits provided by their experience and their environments. Thus these advocates of democracy point out that Marx's prophecies about the inevitable collapse of capitalism failed to materialize because, for one thing, people were forewarned by his prophecy and proceeded to take measures against the widening division between labor and capital that was taking place in his time. Instead of believing that the future is already determined by the conditions of the present, democratic thinkers maintain that man can use his intelligence so to direct policies as to modify, if not forestall, what may seem to be impending.

But if man can so act, it is the natural corollary that the state is controlled by individuals, and not that the state gives meaning to the lives of individuals. And at this point we return to the conception of limits which has been put forward as the characteristic feature of a democracy. For it is only when there are limits on what the government may do, and on the way in which it may do it, that the citizens are in control. In a mass society, the controls should ultimately be in the hands of the whole community, but within such a framework of limitations that the rights of individuals and of minorities are protected.

It is apparent that this definition of "liberal" democracy is far different from the "plebiscitary" democracy which the French Revolution may have seemed to preach. It implies that democracy is more than the rule of the majority. It suggests that the right of the individual to pursue his own spiritual and cultural life, and the right of minorities freely to express their views, and to influence policy, are as much a part of democracy as popular control. It is for this reason that countries like Great Britain and France as well as the United States cherish civil liberties, and that the opposition plays so vital

a part in the British parliamentary process (see p. 85).

It has often been said, however, that only countries reared in a tradition of constitutionalism have respect for such limitations upon government. Nor can we deny that the countries in which Marxism and Fascism have had the greatest effect are those which most lacked a constitutional tradition. Thus it seems clear that newly independent countries like India have a great initial handicap in establishing limited political democracy because of the slowness of their earlier constitutional tradition (and even India knows much more about constitutionalism because of its long contact with the British than do many other politically new countries). And yet if the earlier argument has been correct, the essential feature of democracy in these new countries, as in the older democracies, will be the acceptance of restraints on the operations of government, and the willingness to follow empirical methods rather than an unrestrained rule that operates in terms of some preconceived goal.

Obviously dictatorship can act more speedily and with less hindrance than democracy; obviously the charismatic leader who has a world myth to give his people is more apt to sway the crowd than the leader who must rely on a sober presentation of facts. Moreover, the very fact that the Soviet Union has been able to industrialize itself without outside aid (though at overwhelming cost) greatly appeals to underdeveloped countries whose people are obsessed by the hope that industrialism means power and ultimate wealth. As already suggested (p. 571), the ultimate decision in the new countries may well be much affected by what help the democratic countries offer them. That decision will also depend on the character and strength of the leaders of the new countries, and on the degree to which those leaders have learned the difference between democracy and dictatorship and are able to transmit that lesson to their vast populations.

Significant as is the future course of action of the new countries of Asia, and perhaps ultimately of Africa, it is still in Europe and America that the major decisions in world affairs will come. The four countries considered in detail in this book are among those which, with the

United States, wield the greatest influence in international affairs. It will be remembered, however, that these four countries were studied not only because they were major foreign powers but also because of the wealth of political material which they afford. And it is time now to turn once again to those questions about the adequacy of democratic institutions and politics that were raised in the Introduction—to see whether the evidence brought forward in the main body of the book can supply any tenable answers.

The charges against democracy raised in the Introduction, it may be remembered, were of two types. First, those that concern the machinery of democratic government—the instruments of information, the party system, representative institutions, and the making and administering of policy. Second, those that probe somewhat more deeply and raise the issue of whether the mental and moral qualities necessary for the successful functioning of democracy are not lacking under modern conditions: whether the enormously increased responsibilities of government are not too numerous and complex for the comprehension of the ordinary citizen, and whether the conditions of economic strain, international conflict, and class hostility have not destroyed the reasonableness, patience, and tolerance necessary for voluntary and peaceful agreement.

Inevitably the evidence by which one must judge these questions is affected by the fact that all of the four countries studied in this volume are suffering from crises of varying degrees of intensity and that all have had their “natural” political and social development deflected by the impact of war and its economic consequences. It is impossible to tell what one’s observations would be like if, in each of these countries, there prevailed what we pleasantly, but deceptively, think of as “normal” conditions. And perhaps it is not too important. For the next few years, and perhaps for a much longer time, crisis is likely to be more normal than an untroubled political life. And it will be far more important to understand the potentialities of democratic government under conditions of strain—that is, in the real world—than to speculate about its prospects in an idealized condition of peace and prosperity.

In drawing together the evidence on these questions, two things in particular must be remembered: the difference, in every government, between form and fact, between political appearance and political reality, between aspiration and realization; and the fact that the evidence drawn from these four governments is significant, not as a basis for erecting fresh generalizations, but as a means of testing, by individual examples and concrete experience, some of the more common generalizations and theories about the course and destiny of modern government. The evidence will be important in showing, not what is inevitable, but what is possible. Even if the experience of all four countries should be in complete agreement on certain points, we could not be sure of its application to other countries or conditions. But if the experience of even one of the countries is in sharp contradiction to some of the commonly postulated theories about modern government, those theories must be modified if not abandoned. Thus the evidence may have its greatest significance in discrediting false generalizations and in indicating some of the varied possibilities for future political development.

## THE MACHINERY OF GOVERNMENT

### *Instruments of Political Information and Expression*

If one turns, first of all, to the questions concerning the machinery of government, one matter immediately becomes apparent: the effectiveness of institutions cannot be judged apart from the question of the ultimate aims of the government under consideration. Every political institution—parties, representative organs, and even administrative apparatus—will be judged differently by the Western liberal, the Soviet citizen, and the German National Socialist simply because each has a different picture of the good society and the good government.

Nowhere is this difference more evident than in the organs of information and expression. In the liberal democracies it is assumed that the function of the press is to present full and accurate information, to provide a channel for the

expression of all important political ideas, and to promote the discussion which is the heart of democracy (p. 14). The function is, in large measure, educational, but ideally it is educational in the sense of providing information and encouraging citizens to make up their own minds, to choose and judge for themselves. The assumption is that no man is infallible and that truth emerges from the competition of different opinions, each of which may contain a portion of the truth.

Under authoritarian governments, however, official opinion is quite ready (in spite of "self-criticism" of minor officials in the Soviet Union and occasional admission of past mistakes by its leaders) to acknowledge its own monopoly of the truth. The work of the organs of information is educational in the sense that it indoctrinates citizens with those ideas and attitudes the government thinks useful or desirable. The press, far from being an instrument for encouraging independent judgment, is a device for manipulating and directing opinion according to official policy. As such, it makes the work of the government easier at the same time that it restricts the political judgment of the ordinary citizen (p. 14).

Given this difference in aim, it is far easier for the Soviet Union to realize its objectives than for the liberal democracies to realize theirs, simply because government action is considerably more effective in suppressing than in inspiring freedom and diversity of opinion, and in preventing rather than in encouraging the acquisition of information and understanding. In both Great Britain and France the domination of a large part of the press by men of wealth has led to vigorous denunciation of the "press lords" and the "reign of money" (pp. 14, 248). Yet there is some question of how to prevent the news from being distorted without imposing a remedy worse than the disease. The experience of the Soviet Union or Nazi Germany scarcely suggests that a press owned or controlled by the government would gain in objectivity, and the nature of the periodicals published by political parties in Great Britain and France suggests that the party press is likely to distort the news at least as badly as the press lords (pp. 15, 250).

The extent to which the existing press falls

short of the democratic ideal should not, however, obscure certain definite achievements. In both Great Britain and France every major current of political opinion has its periodicals of mass circulation and can make its views heard throughout the country. In addition, the government-controlled radio, however colorless its coverage, provides an important safeguard against too-flagrant distortions of the news. Certain privately owned papers, in both countries, have set an enviable standard of completeness, fairness, and intelligence both in reporting and in editorial comment. And, in Great Britain, parliamentary debates and investigations like that of the Royal Commission (p. 94) help to make the public aware of the possibility of distortion and constitute a serious check on excessive gullibility. If the press as a whole leaves a good deal to be desired, no one who reads a broad selection of British and French periodicals can fail to be impressed by the abundance, variety, and intelligence of political writing. If democracy should fail in these countries, it will hardly be because the roads to political expression have been closed, or because men have not used their opportunities.

### *Channels of Political Action*

When one turns one's attention to the most obvious means of political action, political parties, another fundamental difference in the purposes of different countries becomes apparent. In the Soviet Union (and this was true also of Nazi Germany) the party is an instrument for the control and direction of the political structure and public opinion as a whole (pp. 466-72, 635). In Great Britain, France, and Western Germany the parties, ideally, are an instrument by which the citizens control their government (pp. 68-70, 308-09, 680). With purposes which are diametrically opposed, it is apparent that a party system which works with considerable efficiency in the Soviet Union would, in the liberal democracies, vitiate the whole purpose of the party system, and that parties in a liberal democracy which pattern themselves on the Soviet model are difficult to fit into the normal pattern of democratic politics.

If one looks at the British, French, and present Western German political parties in more

detail, two observations seem obvious and pertinent. First, all three countries provide the voter with a choice between parties that differ significantly in composition and policy (pp. 68, 280, 665-66). Second, and, paradoxically, a wide range of choice may be almost as disastrous as no choice at all (p. 308). In a sense, the British and French or German systems compensate for each other's disadvantages. In Great Britain, the two-party system encourages the voter to choose between two broad and somewhat diversified groups rather than to select, among several parties, the exact nuance corresponding to his own interests and opinion—although the absence of some of the issues which distract French and German politics keeps this choice from being too narrow. Yet the tendency of the two-party system to give a clear majority to one party in Parliament, and thereby to establish the authority necessary to carry out that party's program, provides some assurance of effective action on the part of the party preferred by the voters (pp. 69-70). In France and in Western Germany, in contrast, the voter is given a broader choice of parties and can choose one that more precisely represents his own views, but the very multiplicity of parties has tended to prevent a clear-cut victory by a single party; and it is even possible for a party which has suffered a set-back at the polls to predominate in the government (p. 308). There is some reason for concluding, therefore, that in a democracy it may be desirable to limit the voter's choice in order that he may continue to have any choice at all.

When one turns to the internal structure of the parties, it becomes evident that every degree of democracy in organization is possible, from the dominance of the leader in the British Conservative Party or the present German Social Democratic Party, to the extreme internal democracy of the French Socialist Party or the loose organization and discipline of the Radical Socialists. No single pattern of organization can be regarded as the only authentic democratic party structure.

Yet it is possible to draw one or two conclusions about the most satisfactory organization of a democratic party. In general, the best organization is one which blends popular participation and control with effective leadership,

without sacrificing either value to the other. If the balance leans too heavily in favor of leadership, one may find at the top, as with the French Communist Party or the East-German SED, a small and irresponsible group of "party bureaucrats" dictating policy both to the rank and file of the party and to its representatives in the legislature, and thus, in fact, ceasing to meet the criterion of democratic organization. If the balance leans too heavily in favor of popular control, however, one may find, as with the French Socialist Party, an indecision, an inability to accept political realities, and a tendency to impose extreme and doctrinaire solutions—which may, in fact, be unrepresentative of the mass of those who vote for the party as distinct from those who are active members (p. 288). The best solution is a compromise which provides for effective authority on the part of a skilled and experienced leadership, subject to two checks: the knowledge that it will be the object of vigorous public criticism (like that which characterizes a British Labor Party Conference—pp. 48-49), and the knowledge that, before too great a lapse of time, its general policy will be passed upon by the voters in a national election. Within the party structure, just as within a country or a parliament, it is discussion rather than a particular method of organization or voting which is the heart of democracy. The surest sign of freedom is not the absence of authority and leadership but the presence of criticism, the ability of a minority group to differ from the majority, and the ease with which it can make its ideas heard.

### *Instruments of Representation*

The person who seeks for "representative government" in the sense of a parliamentary body which conducts the affairs of state, originating the laws and directing their administration, is bound to be disappointed: but the fault lies in his expectations rather than in a weakness of democratic machinery. Representative government, in this sense, could not exist under even the best of circumstances. To expect any large and varied group of average, inexperienced representatives to frame the laws of a complex society and to co-ordinate all the government's far-



flung activities is to impose a burden which no representative assembly was intended to bear.

What a well-organized assembly can do—and do well—is to analyze, criticize, and judge the policies and proposals of the government; to voice the desires and anxieties of the mass of the citizens; to protect their liberties against any abuse of power by the government; to educate public opinion through its debates; and to supervise the way in which legislation is administered. In some ways, the legislature is particularly suited to these tasks. If its members lack the expert knowledge necessary to frame technical legislation, they possess a different kind of knowledge which the experts themselves are not likely to have: the legislators, taken in the mass, represent a range of experience in terms of class and geographical origin and in intimate knowledge of their constituents which makes them exceptionally good judges of public opinion and of the acceptability and workability of laws.

In the Soviet Union, as one would expect, the aim is somewhat different; the Supreme Soviet is, in practice, expected to perform only a few of these functions. Great care is taken to make the body as representative as possible in a vocational and a national sense (pp. 488-89), but the purpose is not to permit these representatives to oversee and control the government but to permit the government to educate them (and through them the people) in its purposes and policies. Thus there is no criticism of the government's official policies, and what criticism there is of administration stops short of the leaders of the Communist Party and, presumably, is permitted only with their approval (p. 491). The same applies to Soviet satellites, such as the People's Chamber of the "German Democratic Republic" (p. 690).

When one turns to the Western democracies, it is evident that both the British and the French parliaments perform certain (although not the same) functions admirably. As protector of individual liberties against any abuse of governmental power, the House of Commons is unexcelled (pp. 84-88). As educator of the public on important issues, its well-organized debates are remarkably effective (pp. 82-83). As critic of proposed legislation, the Opposition, at its best, is highly effective. The chief

criticisms to which Parliament is subjected concern its lack of expertness (which detracts both from the cogency of its legislative criticism and from its ability to supervise the increasingly complex activities of the civil service), the rigor of party discipline (which allegedly destroys the independence and initiative of the private member), the failure to reflect with exactness the strength and varieties of political opinion in Great Britain, and subserviency to the Cabinet.

In France, in contrast, the National Assembly reflects the diversity of opinion and the popular vote more accurately, and the system of specialized committees (p. 319) provides members with greater knowledge and renders them more fit to cope with the technicalities of modern legislation and administration. Although there are complaints of excessive discipline among some of the parties of the Left, the deputies in the Center and on the Right (except the R.P.F.) enjoy a large degree of independence. And, unlike the British Parliament in normal times, the French National Assembly demonstrates its control over the Cabinet by rejecting or making serious modifications in its proposals. In spite of these merits, however, few people would cite the National Assembly as a model of what a democratic legislative body ought to be. The inability of the different party groups to agree upon an effective legislative program and to support a stable government, the violent and undisciplined debate and the uncompromising hostility between different political interests, the eagerness of certain partisans on the extreme Left and the extreme Right to discredit parliamentary democracy by making effective action impossible, all help to give currency to the popular picture of the legislature as a forum of bickering, irresponsible special interests and to make men ready to follow a leader who promises political stability and the preservation of national unity.

Not does the German parliament, whether under the Weimar or the present Bonn Republic, present a much more reassuring picture. Traditionally, of course, the German executive has possessed more independence from parliament and parties than has the French executive, with the result that parliament's control of the executive has often been ineffectual in Germany. But the ensuing conflicts between popu-



lar forces and an authoritarian-minded governing elite has discredited democratic procedures and representative institutions time and again, thereby opening the way for the executive to assume uncontrolled power.

What emerges from these comparisons is the fact that some of the frequently criticized defects of the British Parliament are responsible, at least in part, for the British freedom from the confusion, irresponsibility, and deadlock with which the French legislature is charged, or the lack of effectiveness of parliamentary action in Germany. If the system of representation is less perfect in Great Britain, both in reflecting fewer shades of political opinion and in exaggerating the majority of the larger party, these very distortions provide a stronger and more stable government capable of introducing a comprehensive program and of carrying it through. Party discipline not only reinforces this stability but contributes to the responsibility and the educational value of the British system: if party members failed to vote as a unit, it would be impossible for the voters either to understand or to judge the party's position, and there would be no assurance that a party, once elected, would carry out its promises to the voters or, indeed, would have the power to carry them out (pp. 69-70). To say this, however, is not to suggest that parliamentary machinery in Great Britain is beyond improvement. In particular, an American is likely to feel that a remolding of the committee system on a more specialized basis might provide the private member with an outlet for constructive activity, increase the expertness of Parliament, and make it a more effective body both in the analysis of legislation and in the supervision of the administration.

### ***Policy-Making and Administration***

It has already been emphasized that the functions of government, in every advanced country, have had spectacular growth (pp. 128-34, 339-44, 502-07, 699, 713-14) and the executive's power has grown in proportion. If, as we have seen, the legislature is not well fitted to perform the tasks of framing and initiating (as distinct from criticizing) legislation, or to engage in comprehensive planning, these tasks must fall to a smaller group of leaders and administrators. Naturally

enough, some democrats lament this development. The attention centered upon Hitler, Mussolini, and Stalin has helped to create an impression that leadership must necessarily be authoritarian. Yet, in practice, it is important to distinguish between different kinds of leadership, for leadership which can be kept responsible, which is always subject to criticism, which has no monopoly of political activity, and which can be supplanted by peaceful action is so different from leadership which controls public opinion and the channels of political activity as to deserve a distinct name. Actually, leadership, responsible but effective, is essential to successful democracy, and the experience of France suggests that the democracy which cannot produce such leadership is in serious danger. Indeed, an excess of weakness in leadership is all too likely to lead to an excess of authority.

Because of the difference in the character of democratic and authoritarian leadership, the leader in a democracy must possess exceptional qualities. Ideally he should be a spokesman capable of explaining the problems and policies of government in simple and effective terms. He must, ordinarily, be able to win an open, competitive election. In a parliamentary democracy he should be able to participate successfully in the give and take of debate, meeting the best minds of the opposition in open discussion. He should be able to guide cabinet meetings, to reconcile divergent opinions, to preside over the formulation of policy, and in general to be the "good chairman." He should, in addition, be a good administrator, not in the sense of detailed technical competence, but in the ability to oversee the range of administrative activity and to supervise the co-ordination of policy (pp. 120-21, 334-35, 696).

In contrast, the role of the leader in a country like the Soviet Union is considerably simpler. He, too, must interpret policy to the masses, but he does so unimpeded by the interference of a critical opposition or press. He, too, must be a popular leader, but his position can be created for him artificially: the least magnetic figure could be glorified and "humanized" by the officially directed instruments of public opinion. Since no opposition is tolerated, he need never win an open election, and he need never defend himself before the kind of parliamentary cross-

examination to which British, French, or Western German prime ministers are subjected as a matter of course. He must be a competent planner and administrator and, so far as one can judge from limited evidence, he should be able to co-ordinate and guide peaceably the work of his highest assistants. Yet his officially created prestige gives him a predominance over them which the French Premier or even the British Prime Minister do not enjoy (pp. 497-99).

Another nondemocratic, although not dictatorial or totalitarian, type of leadership is the traditional authoritarian leader who emerges from a hereditary nobility (such as the Prussian *Junkers*) or who rises to the top of a self-perpetuating bureaucratic caste (such as the traditional German officialdom). Such leadership, which long ruled Germany (pp. 701 ff.), shares with totalitarian leadership the absence of effective popular criticism and control.

Each of these types of leadership, it might be noted, tends to perpetuate itself and also the political system which inspires it: men who come to power, not because of their ability to debate but because of their ruthlessness, administrative talents, or hereditary position, are hardly likely to introduce a system of free parliamentary government; and (fortunately for the democracies) men who have arrived in power through the system of free political competition feel little temptation to overthrow the system in which they have been nurtured and to which their talents are suited.

In any event, it has been natural for many to argue that an authoritarian government, able to act promptly and decisively without regard to special pressures or constitutional obstacles or the need to conciliate mass opinion, is far more efficient and far better suited to the conditions of modern government. Particularly at a time when most governments indulge in a considerable degree of planning (pp. 134, 148, 343, 700) democracy is said to be doomed. Planning, the argument runs, entails a concentration of power in the hands of the government too great for effective popular control: men can hardly keep their political liberty if their economic welfare is at the government's disposal. Moreover, to subject the expert planners to control by the inexpert public would be to destroy the value of their plans. Planning,

furthermore, requires a firm and stable government, for no plan can be effective if its sponsors are likely to be turned out of office at any moment and their policies reversed, or even if important modifications in the plan can be made by parliamentary vote.

Such arguments, however, are based on several highly controversial assumptions. We do not know, for example, whether the Soviet government has escaped from special influences, or whether they are merely better hidden. We do know, however, that special interests and influences abounded behind the streamlined façade of the Nazi regime (p. 641). In addition, there is considerable evidence in the Soviet Union that the penalties imposed by an authoritarian government have discouraged initiative and imaginativeness and have encouraged the referring of so many decisions to men at the top of the administrative hierarchy as to cause grave inefficiency (p. 523). An even more serious disadvantage is a consequence of the system of thought control which makes it difficult to know what the people are thinking and what the popular reaction will be to any policy. As a result, the government has at times made serious blunders and has been obliged to modify a policy (like the overly zealous collectivization of the farms or the purging of many technicians suspected of disloyalty to the regime) when it was too late to prevent an enormous economic waste. If democracies move more slowly in their economic experiments, it is nevertheless hard to imagine the committing of blunders on this scale. For one of the essential elements in effective planning is knowledge of the state of public opinion and its effect upon the plan; and in a country where criticism of policy (as distinguished from "self-criticism" of its administration) is impossible, this vital information is lacking. In short, freedom from the need to conciliate public opinion is not necessarily an aid to efficiency.

The experience of the democracies suggests several other weaknesses in the argument. The use of devices like the public corporation (p. 142) indicates that planning need not entail an overwhelming concentration of power in the hands of political leaders. Devices like the working party (p. 148) and the participation of workers, capitalists, and independents in the

making of the Monnet Plan (pp. 355-56) suggest that planning need not be the exclusive preserve of government experts. In addition, the framing of the Monnet Plan indicates that all political factions can be brought to support a reasonable long-range program without violating the right of the voter to change his government; in a like fashion the British Conservatives after the 1951 election retained much of the legislation passed by the Labor government. And the British, if not the French, have demonstrated that firm and forceful government is not incompatible with democratic procedures and open criticism.

Furthermore, the democracies have developed a number of devices for the control of the administrator. Perhaps the most fundamental is freedom of speech and the existence of an opposition both in Parliament and in the press, eager to publicize any abuse of official power. The question period in the House of Commons and interpellations in the National Assembly are formidable weapons. And in Great Britain, at least, it is possible to fix definite responsibility on the political heads of the administration and to vote them out of office if their general policy is unsatisfactory.

### **Local Self-Government**

Traditionally, one of the safeguards of limited government has been found in local self-government. It is often said, and with justice, that the "grass roots of democracy" are at the local level where people deal with problems of immediate and direct importance to themselves, problems, moreover, which are intelligible to them in terms of their personal experience. Significantly, local self-government in Germany developed, and was able to gain genuine importance, at a time when German central institutions were still authoritarian (p. 712); equally, after the German collapse at the end of World War II, self-government reasserted itself first at the local level. Not only have local self-governing institutions shown stubborn vitality in times of stress; they can also provide a healthy counterbalance to overcentralization, restraining the "apoplexy at the center and anaemia at the extremities" which are always dan-

gers in the highly organized bureaucratic state of today.

It must be admitted, however, that even in Great Britain, with its long tradition of local self-government, there is a marked trend towards looking on local government as a device for decentralization rather than as a counterbalance to the central administration. This is largely because so many activities like education and public health, which used to be locally inspired, are now organized on a national scale. Moreover, local services are no longer paid for predominantly out of local rates (see p. 164).

Yet there is still a marked difference between the British and French systems of local government. For all that the Fourth Republic made tentative moves towards increasing the role of the local councils, the authority of the prefect remains supreme within his sphere of action; and the prefect in turn is the political agent of the central administration. In Great Britain, in contrast, local officials are employed and paid by the local representative bodies, even though in many cases they must meet nationally imposed standards.

The most serious evidence of decline in the vitality of local self-government in Great Britain is the lack of interest in local issues and elections. It is true that both in France and Great Britain local elections are increasingly looked on as trials of strength for the national parties, and that interjecting national issues into local contests has somewhat increased the public interest. But this in itself provides the danger that political contests, like administrative programs, are merely being decentralized and have no firm roots in local needs. The most extreme instance of transplanting national issues and party divisions into local and unfamiliar soil is in the French overseas departments (see p. 412) where there is serious danger that the rise of parties which could represent differences of opinion on problems of local concern to these areas may be stultified. While a closely knit community like that of Great Britain contains no such widely differing attitudes and conditions as can be found within the diverse territories of the French Union, there are still many local problems which could provide the focus for local political contests and make them more genuine "practice grounds for democracy."

It is still far too early, of course, to say that genuine self-government at the local level is one of the casualties of the welfare state, but this may be a prospect which only conscious effort can avoid.

### **Law and the Courts**

Too often the essential interrelationship between the judicial function and constitutionalism is overlooked. The fact that there is no judicial review in Great Britain or France does not contradict the point, for in these countries, too, there is agreement that government must operate within recognized channels of action and that government officials should use accepted procedures in carrying out their duties. Moreover, the courts are separate, independent agencies, bound by their own rules of procedure, that determine cases according to publicly known law.

In the Soviet Union, in contrast, the courts are looked on as instruments of the regime in carrying out its purposes. There is no acceptance of the concept of the rule of law (p. 174), any more than there is of limited government.

Marxists, of course, maintain that the Soviet Union dispenses "mass justice" while in the democracies it is "class justice." Even British Socialists used to claim that the British judicial system and the common law itself gave particular advantages to the claims of property. But it is noticeable that such charges are now rarely made. For one thing, the British courts placed no impediment in the way of Labor's programs after 1945. But more important has been the terrifying example of those trials in Nazi Germany, the Soviet Union, and the Soviet satellite states in which the law was deliberately twisted to entrap the defendant, and judges obviously acted as accusers rather than impartial umpires. In the face of such experience, the independence of the judiciary, known processes of law, and continuity of principles behind decisions, have taken on new importance.

On another level, it is still possible to find people who fear that the growing exercise of judicial functions by administrative agencies is opening the way to dictatorship by violating the separation of judiciary and administration.

French and German experience suggests that, on the contrary, administrative law, as used for example by the French Council of State (see p. 392), places administrative officials under stricter rules than does the Anglo-American practice of dealing with them through ordinary court procedures. Increasingly, in fact, it is being suggested that what is needed in Great Britain, for example, is a less *ad hoc* response to the need for administrative tribunals in particular fields (see p. 193), and a more carefully organized system of administrative courts with the stability and safeguards long provided in both France and Germany. In fact, administrative justice is not a violation of traditional judicial restraints on government but rather an extension of them. In this sense, it may well be the necessary response of the traditional judicial function to the vast expansion of administrative activities in the modern state.

### **ADEQUACY OF DEMOCRATIC POLITICAL MACHINERY**

One of the obvious conclusions of a survey like this is the fact that there is no such thing as "democratic political machinery" in general. On the contrary, one of the greatest strengths of democracy is the abundant variety of devices and combinations of devices which can be used to achieve free, representative, responsible, and efficient government. There may be a two-party system or a multi-party system; the parties themselves may be highly disciplined, loosely disciplined, or not disciplined at all—and the same party system may include several kinds of parties. Authority may rest in part in the legislature, in the cabinet, in the party organizations, in the civil service, or in any number of possible combinations. The cabinet may be composed of one party or several. The legislature may have a clear party majority or a system which prevents any party from getting a majority. It may be elected in a great variety of ways, from the simple direct election of the House of Commons to the indirect election of the French Council of the Republic. There can even be such anachronisms as the hereditary House of Lords, or the appointive system under which

the German Federal Council has traditionally operated. The legislature may have a set of specialized committees or a number which are unspecialized, and it may arrange its procedure so that ministers dominate the proceedings or so that private members assume the leadership. The government may administer a large number of public services directly, or it may use devices like the public corporation. Different degrees of authority may be given to civil servants who may be recruited in a variety of ways and with a variety of qualifications in mind. There is no necessary uniformity in the pattern of local government or in the division of authority between national and local governments. Even the courts may follow the most divergent patterns of organization and training. No single formula is obligatory. The very lack of authoritarianism in principle encourages experiment and inventiveness.

## DEMOCRACY IN THE MODERN WORLD

What follows, then, is that no failure of one set of democratic institutions, on the mechanical level, can be taken as proof of the failure of democracy in general. The fundamental question is whether, however adequate the machinery, human beings today have the qualities of mind and character to make it function. No reform in the machinery of the French National Assembly, it might be charged, could make it an effective body so long as a large proportion of its members have no desire to make parliamentary democracy work and, indeed, display considerable eagerness to discredit it. No reform of the electoral system can save a country which is threatened by class war. No governmental device can make men more intelligent or public-spirited or tolerant or reasonable than their own capacity and the conditions of modern life permit. Most fundamentally, it is maintained, no democratic government can succeed if its work is too voluminous and technical for the comprehension of the mass of the citizens. Thus the accusation is that government has expanded beyond the capacity of the people to understand, and that war and economic strife have

destroyed the qualities of character needed for peaceful agreement and compromise.

Fortunately this attack is overly simple in some of its assumptions. The citizen does not have to be technically competent in every phase of governmental activity in order to judge whether or not he is well governed. The political decisions required of him are relatively simple, and he is not ill-equipped to make them. As Aristotle noted, the person who eats a dinner can judge, as well as the cook, whether or not it is well cooked. One need not know how to build a house in order to tell that the roof leaks. The citizen is concerned with purposes and results, rather than the technical means of accomplishing them. As already suggested (p. 135), it requires a technician to plan and build the bridge, but it is the citizen who wants to get across the water. The ordinary citizen knows better than anyone else his own desires and needs, and he is better equipped than anyone else to tell whether his government is satisfying them. In the homely phrase, only the wearer of the shoe knows where it pinches.

The Western democracies have provided us with considerable evidence that an educated and experienced electorate is not a bad judge of the important issues of modern politics. Certainly those prophets who expected the extension of the suffrage to result in a tide of reckless and revolutionary legislation have been badly disappointed. Even in foreign relations, where the judgment of the ordinary citizen would seem most badly handicapped by lack of personal knowledge and experience, the policy of the democracies has scarcely been so disastrous as that of a Hitler or a Mussolini, and there is some reason for believing that the leaders of the Soviet Union, despite their reputation for Machiavellian cunning, have been as wrong in their assessment of political realities, and have made as many blunders, as democratic statesmen.

In fact, a survey of modern governments suggests that some of those observers who have been most ruthless in their assessment of the political incapacity of the people have been most credulous in their willingness to attribute supernatural qualities of wisdom and integrity to the leaders and administrators of authoritarian

states. Yet revelations of the nature of Hitler and his "court" disclose a degree of folly of which no democracy has shown itself capable.<sup>2</sup> Similarly, it would be hard to think of a more devastating indictment of Soviet leadership than the Great Purge of the 1930's (pp. 449, 497). For if the great majority of the men who had composed the Political Bureau, the Central Committee, and other leading organs were truly guilty of the crimes with which they were accused, then surely no democracy has elevated to power a similar collection of traitors and scoundrels; if they were not guilty, then no democracy has indulged in so ruthless, hysterical, and indiscriminating a destruction of its leading citizens.

If one turns from the question of technical competence to that of the moral preconditions for successful democratic government—calmness, reasonableness, and patience in arriving at decisions; a desire to come to peaceful agreement and, therefore, a willingness to make concessions and compromises; a feeling of mutual confidence that no political group will attempt to impose its will by force or try to destroy its opponent or use violent means to keep other groups from attaining power or overthrow the constitutional system—it seems clear that such qualities are not easily and quickly acquired but rather are fostered by long experience and, in general, by favorable economic, social, and even geographical circumstances (pp. 4, 236). It is hard to create a democracy where such qualities and experience are lacking (pp. 450-53, 611), and it is significant that in countries like Great Britain and the United States, where democracy has been most successful, children are taught from their earliest schooldays to "play the game," accept defeat with good sportsmanship and victory with generosity, abide by the will of the majority, and take criticism and disagreement in good part. In fact, the very success with which these qualities are inculcated in the democracies—the belief that any problem can be solved if only men of good will meet each other in reasonable discussion around a table—have made it difficult to understand and deal with those representatives of authoritarian governments who, like Hitler before

World War II, or the Soviet leaders today, cannot think in terms of enduring compromise and give and take, but only in terms of total victory and crushing defeat, who regard concessions as a sign of weakness and who consider a compromise not as an enduring agreement but rather as a resting place on the road to the complete achievement of their original aims (p. 364), who look forward to crushing their enemies, and who cannot conceive of the toleration of a "loyal opposition."

More than education is necessary for the cultivation of the political attitudes required for democratic government. In general, democracy flourishes best where there is a feeling of security and of economic well-being. The man who suffers from grinding poverty and the anxieties of unemployment cannot be expected to be reasonable and detached in his judgments, judiciously weighing the fate of the commonwealth in impersonal terms and forgetting the hunger of his children. The person who lives under conditions of civil strife is all too likely to consider order, even when brought by a "strong man," preferable to the uncertainty and danger of a freer existence. In a world where civil dissension and economic distress are far from exceptional, it is natural, then, to ask whether the preconditions for democracy have not been destroyed. In fact, even before the outbreak of World War II, so keen an observer as Professor Laski could raise the question of whether, in a modern industrialized society, the conflict between the privileged classes and the advocates of a socialized economy would not turn from peaceful and constitutional to violent and unconstitutional channels.<sup>3</sup> More specifically, it was suggested that even if the Labor Party should win an open election, its opponents might not permit it to take power peacefully, and that the possibility of a regular alternation of parties would be destroyed. No political and economic system could stand the violent oscillations in policy which that alternation would entail. The differences between the parties no longer would be of minor importance—differences in degree—but fundamental differences in principle and in kind. The sanctified ideals

<sup>2</sup> H. R. Trevor-Roper, *The Last Days of Hitler*, pp. 1-41.

<sup>3</sup> Harold J. Laski, *Parliamentary Government in England*, pp. 3-87.



of one party would be anathema to its opponent. Neither could afford to be tolerant when the policies of its enemy would mean death to its most basic interests and aspirations. For socialism to be introduced peacefully into Great Britain, Laski could write, would be "a unique revolution in history."<sup>4</sup>

If one looks today at France, this picture may not seem grossly overdrawn. The strain of war and the destruction and economic misery attendant upon it, the impact of inflation, and the strife between political extremes, all have encouraged voters to turn to parties whose first loyalty is not to liberal democracy. Thus in the elections of 1951 less than half the votes were cast for parties which were clearly democratic in their basic assumptions. Yet it is only fair to point out that even in France it has been possible to achieve a considerable economic recovery through the Monnet Plan, aided as it has been through ECA (p. 357), and to secure acceptance of the Schuman Plan (pp. 415-17).

If one crosses the channel to Great Britain, the picture loses much of its validity. In part, of course, the peaceful accession to power of the Labor Party can be attributed to the fact that a predominantly Conservative government was obliged, during World War II, to introduce such broad controls over industry and so sharp an increase in the taxes of the wealthier classes and to make such extensive promises of social reform that the transition to a Labor government was far less sudden and violent than it might otherwise have been. In addition the need to appeal to the same "marginal" middle class votes (pp. 68-69) helped to minimize the differences between the two parties. But whatever the explanation, the fact is that, far from finding every item of the Labor program anathema, the Conservatives had already conceded the main points in principle, and the differences between the parties have remained differences in degree and not in kind. Even the apprehension as to violent oscillations in policy seems to have been exaggerated. For except in certain fields like the nationalization of iron and steel, the Conservatives showed no desire to "unscramble the eggs" on their return to office.

<sup>4</sup> *Ibid.*, p. 65.

In short, there seems to have been a serious underestimation of the adaptability of democratic institutions and of the power of democratic traditions, the ancient practice of compromise, and the devotion to parliamentary procedures to mitigate the class conflict and to permit peaceful change.

## DEMOCRACY AND PLANNING

If there is no longer fear of open class warfare in Great Britain, a less dramatic question has caused considerable concern: whether or not it is possible for a democratic society to engage in economic planning on an extensive scale and to carry out these plans without resorting to the sort of coercion (pp. 518, 523) which has accompanied Soviet planning. The essence of planning is that certain forms of economic activity and certain types of consumption should be limited or abandoned in favor of others considered more important to the community; that is, that workers, employers, and consumers should act in ways in which they would not act if left to their own discretion. Quite typically, in Great Britain, France, and the Soviet Union today, planning calls for self-deprivation or "austerity" in the interest of future productivity and abundance. The emphasis, for example, is on the development of heavy industry or, in Great Britain, on the production of goods for export, rather than on the immediate satisfaction of the native consumer. Yet, it is often suggested, men are not capable of the degree of self-discipline and respect for the common welfare to submit voluntarily to the sacrifices demanded of them. And it is said that democratic government, at this point, faces an impossible dilemma. To sacrifice the general welfare, as represented by the plan, because of the refusal of certain groups to co-operate would be to admit that democracy is incapable of vigorous action in the public interest. But to use measures of force against those who resist the plan would be to abandon the essential democratic principle of peaceful adjustment and compromise. Early in 1948, for example, the plans for the introduction of the National Health Service (p. 199) in Great Britain were cited as



an illustration of the problem. The doctors, as represented by the British Medical Association, voted against co-operation with the plan accepted by the representatives of the people in Parliament. To abandon the plan would have been to permit the will of the majority to be flouted by a minority. To bring force to bear upon the doctors would have been to ape the methods of the dictators. It was implied that there was no democratic way out.

The dilemma was logical and forceful enough, but it did not correspond to the facts. Harsh and uncompromising statements from both parties to the controversy were generally condemned by public opinion. As the time for a showdown approached, spokesmen for the government adopted a more moderate tone and offered certain concessions; and the British Medical Association modified its attitude of bitter hostility. The original act had already attempted to meet the outstanding fears and criticisms of the medical profession. And as a result both of the attempt to find a solution which would achieve the principal aims of universal health service while meeting the doctors' objections, and of the strong pressure exerted from public opinion for a reasonable attitude on both sides, the National Health Service Act could go into force without the bitterness or sabotage which had been anticipated.

This and similar examples indicate that the possibilities of compromise and peaceful adjustment are far greater than supposed by those who see issues only in a theoretical and doctrinaire light. What is important is, first, a truly imaginative effort to discover solutions which will eliminate the major objections to a plan without destroying its purpose and, second, ingenuity in the development of incentives which will persuade men and women to co-operate voluntarily and without the use of force. One of the most important elements in the achievement of these objectives is the discovery that people co-operate far more effectively when they have had a share in the making of the plan, both because the consultation in advance reveals irritants and objections which can be removed before public opinion is alienated, and because participation in the making of the plan is an educational experience for the participants,

making them aware of interests other than their own and revealing the reasons for decisions which might otherwise seem arbitrary and inscrutable. For a long time it was common to assume, even among democratic Socialists, that planning meant that plans would have to be imposed from above, by the experts. But both the French experience with the Monnet Plan and the British experiments with planning have shown that it is possible to evolve a type of democratic planning in which workers, capitalists, and consumers participate and arrive at mutual agreement.

At the same time no mechanism of procedure can of itself solve one of the most serious problems of contemporary democratic society: how to provide effective incentive to work where there is no fear of unemployment. In a society dedicated to social welfare, the economic whip is outdated. To one who cherishes human values, the degree of labor regimentation in force in the Soviet Union, coupled with the drastic penalties for breaches of "labor discipline," are abhorrent. Yet every right extended by society and implemented by the government brings its corresponding obligation. In societies in which economics and politics are so inextricably interrelated, the successful functioning of democracy must be measured not only in terms of representative machinery but also of the productivity of labor.

## DEMOCRACY AND THE WORLD CRISIS

Perhaps even more crucial is the way in which Western democracies respond to the threat of a ruthless opponent. Defense against a totalitarian adversary can lead to measures endangering fundamental features of democratic life, to suspicion of anything or anyone not conforming to what appears "necessary" for successful defense, or, even worse, to an orthodoxy which claims exclusive right to be the correct answer to Communism. It can arouse fear and vilification of political opposition and party conflicts because, so the argument goes, they may endanger essential national unity. Moreover, the bitter necessity of devoting an increasing proportion of national wealth and effort to

defense endangers programs and policies of social reform and economic improvement. Thus to emotionalism in the approach to political problems may be added impoverishment (especially in Great Britain and France), militarization, and, above all, a conformism that comes dangerously close to that which stamps the totalitarianism which democracy abhors.

Only supreme vigilance and determination can preserve contemporary democracy from such insidious internal threats. As in France, so in international politics is there a strong tendency to counter the extreme Left by the extreme Right. Thus democracy has a twofold challenge: to resist totalitarian encroachments on its own way of life as well as in external relations.

The democratic way of political life is not an easy one, but its rewards are great. No form of government is simpler than one man ruling over others; yet all history stands as a record of

the abuse of power so concentrated. Democracy requires from its citizens a level of political intelligence, experience, maturity, public spirit, and self-restraint which is lacking in large parts of the world, and it requires the exercise of ingenuity in finding solutions and developing the political machinery appropriate for a system which desires freedom and responsibility as well as efficiency. The great strength of democracy is that its way of life fosters and encourages these very qualities. It is in the democracies that no one attitude or solution is orthodox, that diversity and experiment are considered natural and desirable. And as one looks at the great variety of devices which have, in practice, been developed for the realization of democratic aims, it would be rash to conclude that in imaginativeness, willingness to experiment, and social idealism, the democracies yield in any way to other forms of government.

## APPENDIX A

# Constitution of the French Republic, 1946

*The National Constituent Assembly has adopted,  
The French people has approved,  
The President of the Provisional Government of  
the Republic promulgates the Constitution that follows:*

### PREAMBLE

On the morrow of the victory of the free peoples over the regimes that attempted to enslave and degrade the human person, the French people proclaims once more that every human being, without distinction of race, religion or belief, possesses inalienable and sacred rights. It solemnly reaffirms the rights and freedoms of man and of the citizen consecrated by the Declaration of Rights of 1789 and the fundamental principles recognized by the laws of the Republic.

It further proclaims as most vital in our time the following political, economic and social principles:

The law guarantees to women equal rights with men in all domains.

Anyone persecuted because of his activities in the cause of freedom has the right of asylum within the territories of the Republic.

Everyone has the duty to work and the right to obtain employment. No one may suffer in his work or his employment because of his origin, his opinions or his beliefs.

Everyone may defend his rights and interests by trade-union action and may join the union of his choice.

The right to strike may be exercised within the framework of the laws that govern it.

Every worker through his delegates may participate in collective bargaining to determine working conditions, as well as in the management of business.

All property and all enterprises that now have or subsequently shall have the character of a national public service or a monopoly in fact must become the property of the community.

The nation ensures to the individual and the family the conditions necessary to their development.

It guarantees to all, and notably to the child, the mother and the aged worker, protection of health, material security, rest and leisure. Every human being who, because of his age, his physical or mental condition, or because of the economic situation, finds him-

self unable to work, has the right to obtain from the community the means to lead a decent existence.

The nation proclaims the solidarity and equality of all Frenchmen with regard to the burdens resulting from national disasters.

The nation guarantees equal access of children and adults to education, professional training and culture. The establishment of free, secular, public education on all levels is a duty of the State.

The French Republic, faithful to its traditions, abides by the rules of international public law. It will not undertake wars of conquest and will never use its arms against the freedom of any people.

On condition of reciprocity, France accepts the limitations of sovereignty necessary to the organization and defense of peace.

France forms with the people of its overseas territories a Union based upon equality of rights and duties without distinction of race or religion.

The French Union is composed of nations and peoples who wish to place in common or coordinate their resources and their efforts in order to develop their civilization, increase their well-being and ensure their security.

Faithful to her traditional mission, France proposes to guide the peoples for whom she has assumed responsibility toward freedom to govern themselves and democratically to manage their own affairs; putting aside any system of colonization based upon arbitrary power, she guarantees to all equal access to public office and the individual or collective exercise of the rights and liberties proclaimed or confirmed above.

### THE INSTITUTIONS OF THE REPUBLIC

#### TITLE I. SOVEREIGNTY

ART. 1. France is a republic, indivisible, secular, democratic and social.

ART. 2. The national emblem is the tricolor flag—blue, white and red—in three vertical bands of equal dimensions.

The national anthem is the "Marseillaise."

The motto of the Republic is—"Liberty, Equality, Fraternity."

Its principle is: government of the people, for the people and by the people.

ART. 3. National sovereignty belongs to the French people.

No section of the people nor any individual may assume its exercise.

The people shall exercise it in constitutional matters by the vote of their representatives or by the referendum.

In all other matters they shall exercise it through their deputies in the National Assembly, elected by universal, equal, direct and secret suffrage.

ART. 4. All French citizens and nationals of both sexes, who are ~~not~~ enjoy civil and political rights, may vote under conditions determined by the law.

#### TITLE II. THE PARLIAMENT

ART. 5. The Parliament shall be composed of the National Assembly and the Council of the Republic.

ART. 6. The duration of the powers of each Assembly, its mode of election, the conditions of eligibility and the bases of ineligibilities and incompatibilities shall be determined by the law.

However, the two Chambers shall be elected on a territorial basis, the National Assembly by universal, direct suffrage, the Council of the Republic by the communal and departmental bodies by universal, indirect suffrage. The Council of the Republic is renewable one-half at a time.

Nevertheless, the National Assembly may itself elect by proportional representation councillors whose numbers shall not exceed one-sixth of the total number of members of the Council of the Republic.

The number of members of the Council of the Republic may not be less than 250 nor more than 320.

ART. 7. War may not be declared without a vote of the National Assembly and the concurrent opinion of the Council of the Republic.

ART. 8. Each of the two Chambers shall pass upon the eligibility of its members and the regularity of their elections; it alone may receive their resignation.

ART. 9. The National Assembly shall convene by right every year on the second Tuesday in January.

The total duration of the interruptions of each session may not exceed four months. Adjournments of more than ten days shall be considered as interruptions.

The Council of the Republic shall sit at the same time as the National Assembly.

ART. 10. The meetings of the two chambers shall be public. Reports of the debates in extenso, as well as the parliamentary documents, shall be published in the "Journal Officiel."

Each of the two Chambers may convene as a secret committee.

ART. 11. Each of the two Chambers shall elect its secretariat every year, at the beginning of the session, by proportional representation of party groups.

When the two Chambers meet together to elect the President of the Republic, their secretariat shall be that of the National Assembly.

ART. 12. When the National Assembly is not sitting, its secretariat, exercising control over the actions of the Cabinet, may convoke the Parliament; it must do this

upon the request of one-third of the deputies or of the President of the Council of Ministers.

ART. 13. The National Assembly alone shall adopt the laws. It may not delegate this right.

ART. 14. The President of the Council of Ministers and the members of the Parliament shall have the initiative in legislation.

Bills and proposed laws introduced by members of the National Assembly shall be filed with its secretariat.

Proposed laws introduced by members of the Council of the Republic shall be filed with its secretariat and sent without debate to the secretariat of the National Assembly. They may not be received if they would result in the reduction of revenues or the creation of new expenditures.

ART. 15. The National Assembly shall study the bills and proposed laws submitted to it in its committees, of which it shall determine the number, the composition and the jurisdiction.

ART. 16. The proposed budget shall be submitted to the National Assembly.

This bill may include only such provisions as are strictly financial.

An organic law shall regulate the method of presentation of the budget.

ART. 17. The deputies of the National Assembly shall have the right to initiate appropriations.

However, no proposals which would tend to increase appropriations already decided upon or create new ones may be presented during the discussion of the budget and of prospective or supplementary appropriations.

ART. 18. The National Assembly shall regulate the accounts of the nation.

It shall be assisted in this task by the "Cour des Comptes."

The National Assembly may entrust to the "Cour des Comptes" all investigations or studies concerning public revenues and expenditures or the administration of the treasury.

ART. 19. Amnesty may not be granted except by a law.

ART. 20. The Council of the Republic shall examine, in order to give its opinion thereon, the bills and proposed laws passed on first reading by the National Assembly.

It shall give its opinion not more than two months after a measure is sent to it by the National Assembly. When the budget law is under discussion, this time may be reduced, if need be, to such time as does not exceed that taken by the National Assembly for its consideration and vote. When the National Assembly has adopted a rule for emergency procedure, the Council of the Republic shall give its opinion within the same time as that provided for debate by the rule of the National Assembly. The time limit specified in the present article shall be suspended during interruptions of the session. It may be extended by a decision of the National Assembly.

If the opinion of the Council of the Republic is in agreement with that of the National Assembly or if it has not been given within the time limit specified in

the preceding paragraph, the law shall be promulgated as passed by the National Assembly.

If this opinion is not in agreement with that of the National Assembly, the latter body shall examine the bill or proposed law on second reading. It shall dispose definitively and absolutely of the amendments proposed by the Council of the Republic, accepting or rejecting them in whole or in part. When these amendments are completely or partially rejected, the vote on second reading of the law shall be by roll call and by an absolute majority of the members of the National Assembly, if the vote on the whole has been taken under the same conditions by the Council of the Republic.

ART. 21. No member of the Parliament may be prosecuted, sought by the police, arrested, detained or tried because of opinions expressed or votes cast by him in the exercise of his function.

ART. 22. No member of the Parliament may be prosecuted or arrested during his term of office for a criminal offense except with the authorization of the Chamber of which he is a member, or in the case of a major crime. The detention or prosecution of a member of the Parliament shall be suspended if the Chamber of which he is a member requests it.

ART. 23. Members of the Parliament shall receive compensation fixed in relation to that of a given grade of civil servants.

ART. 24. No-one may be a member both of the National Assembly and of the Council of the Republic. Members of the Parliament may not be members of the Economic Council nor of the Assembly of the French Union.

#### TITLE III. THE ECONOMIC COUNCIL

ART. 25. An Economic Council whose statutes shall be determined by law, shall examine the bills and proposed laws within its purview in order to give its opinion thereon. The National Assembly shall send such bills to this Council before considering them.

The Economic Council may also be consulted by the Council of Ministers. It must be consulted by that body concerning the establishment of a national economic plan for full employment and the rational utilization of our material resources.

#### TITLE IV. DIPLOMATIC TREATIES

ART. 26. Diplomatic treaties duly ratified and published shall have the force of law even when they are contrary to internal French legislation; they shall require for their application no legislative acts other than those necessary to ensure their ratification.

ART. 27. Treaties relative to international organization, peace treaties, commercial treaties, treaties that involve national finances, treaties relative to the personal status and property rights of French citizens abroad, and those that modify French internal legislation, as well as those that involve the cession, exchange or addition of territories shall not become final until they have been ratified by a legislative act.

No cession, no exchange and no addition of territory shall be valid without the consent of the populations concerned.

ART. 28. Since diplomatic treaties duly ratified and published have superior authority to that of French internal legislation, their provisions shall not be abrogated, modified or suspended without previous formal denunciation through diplomatic channels. Whenever a treaty such as those mentioned in Article 27 is concerned, such denunciation must be approved by the National Assembly, except in the case of commercial treaties.

#### TITLE V. THE PRESIDENT OF THE REPUBLIC

ART. 29. The President of the Republic shall be elected by the Parliament.

He shall be elected for seven years. He shall be eligible for reelection only once.

ART. 30. The President of the Republic shall appoint in the Council of Ministers the Councillors of State, the Grand Chancellor of the Legion of Honor, the ambassadors and special envoys, the members of the Superior Council and the Committee for National Defense, the rectors of the universities, the prefects, the chiefs of the central administrative services, the general officers and the Government representatives in the overseas territories.

ART. 31. The President of the Republic shall be kept informed of the progress of international negotiations. He shall sign and ratify all treaties.

The President of the Republic shall accredit ambassadors and special envoys to foreign powers; foreign ambassadors and special envoys shall be accredited to him.

ART. 32. The President of the Republic shall preside over the Council of Ministers. He shall order the minutes of their meetings to be recorded and shall keep them in his possession.

ART. 33. The President of the Republic shall preside in the same capacity over the Superior Council and the Committee for National Defense, and shall have the title of Commander-in-Chief of the armed forces.

ART. 34. The President of the Republic shall preside over the Superior Council of the Judiciary.

ART. 35. The President of the Republic shall have the right of pardon in the Superior Council of the Judiciary.

ART. 36. The President of the Republic shall promulgate the laws within ten days after their text, as finally adopted, has been sent to the Government. This interval may be reduced to five days if the National Assembly declares an emergency.

Within the time limit fixed for promulgation of a law, the President of the Republic, in a message stating his reasons, may ask that it be reconsidered by both Chambers; this reconsideration may not be refused.

If the President of the Republic does not promulgate a law within the time limit fixed by the present Constitution, the President of the National Assembly shall promulgate it.

ART. 37. The President of the Republic shall communicate with the Parliament by means of messages addressed to the National Assembly.

ART. 38. Every act of the President of the Republic must be countersigned by the President of the Council of Ministers and by a Minister.

ART. 39. Not more than thirty and not less than fifteen days before the expiration of the term of office of the President of the Republic, the Parliament shall elect a new President.

ART. 40. If, in the application of the preceding article, the election must take place during the period when the National Assembly is dissolved in conformity with Article 51, the powers of the then President of the Republic shall be extended until such time as a new President is elected. The Parliament shall elect this new President within ten days after the election of the National Assembly.

In this case, the President of the Council of Ministers shall be designated within fifteen days after the election of the new President of the Republic.

ART. 41. If the President of the Republic is not able to exercise his office for reasons duly noted by a vote of the Parliament, or in the event of a vacancy caused by death, resignation or any other circumstance, the President of the National Assembly shall assume the interim functions of the President of the Republic. He shall be replaced in his own duties by a Vice-President.

The new President of the Republic shall be elected within ten days, except under the conditions specified in the preceding article.

ART. 42. The President of the Republic may not be tried except for high treason.

He may be indicted by the National Assembly and arraigned before the High Court of Justice under the conditions set forth in Article 57 below.

ART. 43. The office of President of the Republic is incompatible with any other public office.

ART. 44. Members of families that once reigned over France shall not be eligible for the Presidency of the Republic.

#### TITLE VI. THE COUNCIL OF MINISTERS

ART. 45. At the opening of each legislative session, the President of the Republic, after the customary consultations, shall designate the President of the Council.

The latter shall submit to the National Assembly the program and the policy of the Cabinet he intends to constitute.

The President of the Council and the Ministers may not be formally appointed until the President of the Council receives a vote of confidence from the National Assembly by a roll call vote and by an absolute majority of the deputies, except when force majeure prevents the National Assembly from meeting.

The same procedure shall be followed during a legislative session in the event of a vacancy caused by death, resignation or any other circumstance, except in the case set forth in Article 52 below.

No ministerial crisis occurring within the fifteen-day period after the appointment of the ministers shall require the application of Article 51.

ART. 46. The President of the Council and the Ministers chosen by him shall be formally appointed by a decree of the President of the Republic.

ART. 47. The President of the Council shall ensure the execution of the laws.

He shall appoint all civil and military officials except those specified in Articles 30, 46 and 84.

The President of the Council shall assume the direction of the armed forces and shall coordinate all measures necessary for national defense.

The acts of the President of the Council mentioned in the present article shall be countersigned by the Ministers concerned.

ART. 48. The Ministers shall be collectively responsible to the National Assembly for the general policy of the Cabinet and individually responsible for their personal actions.

They shall not be responsible to the Council of the Republic.

ART. 49. A question of confidence may not be put except after discussion by the Council of Ministers; it can be put only by the President of the Council.

The vote on a question of confidence may not be taken until one full day after it has been put before the Assembly. It shall be taken by a roll call.

The Cabinet may not be refused a vote of confidence except by an absolute majority of the Deputies in the Assembly.

Refusal to give such a vote shall automatically result in the collective resignation of the Cabinet.

ART. 50. Passage of a motion of censure by the National Assembly shall automatically result in the collective resignation of the Cabinet.

The vote on such a motion cannot be taken until one full day after it has been made. It must be taken by a roll call.

A motion of censure may be adopted only by an absolute majority of the Deputies in the Assembly.

ART. 51. If in the course of an eighteen-month period two ministerial crises occur under the conditions set forth in Articles 49 and 50, the Council of Ministers, after obtaining the opinion of the President of the Assembly, may decide to dissolve the National Assembly. Its dissolution shall be proclaimed by a decree of the President of the Republic in accordance with such decision.

The provisions of the preceding paragraph may not be applied before the expiration of the first eighteen months of the Legislature.

ART. 52. In case of dissolution, the Cabinet, with the exception of the President of the Council and the Minister of the Interior, shall remain in office to carry on current business.

The President of the Republic shall appoint the President of the National Assembly as President of the Council. The latter shall appoint the new Minister of the Interior with the approval of the secretariat of the National Assembly. He shall appoint as Ministers of State members of party groups not represented in the Government.

General elections shall take place not less than twenty and not more than thirty days after the dissolution.

The National Assembly shall convene by right on the third Thursday after its election.

ART. 53. The Ministers shall have access to the two Chambers and to their Committees. They must be heard when they request it.

In discussions before the Chambers they may be assisted by representatives designated by decree.

ART. 54. The President of the Council of Ministers may delegate his powers to a Minister.

ART. 55. In the event of a vacancy caused by death or any other circumstance, the Council of Ministers shall call upon one of its members to exercise the functions of President of the Council of Ministers temporarily.

#### TITLE VII. THE LEGAL RESPONSIBILITY OF MINISTERS

ART. 56. The Ministers shall be legally responsible for crimes and misdemeanours committed in the exercise of their functions.

ART. 57. The Ministers may be indicted by the National Assembly and arraigned before the High Court of Justice.

The National Assembly shall vote upon this question by secret ballot and by an absolute majority of its members, with the exception of those who may be called upon to participate in the prosecution, investigation or judgment of the case.

ART. 58. The High Court of Justice shall be elected by the National Assembly at the opening of each legislative session.

ART. 59. The organization of the High Court of Justice and the procedure to be followed before it shall be determined by a special law.

#### TITLE VIII. THE FRENCH UNION

##### *Section I: Principles*

ART. 60. The French Union shall be composed, on the one hand, of the French Republic which comprises Metropolitan France and the overseas departments and territories, and, on the other hand, of the Associated Territories and States.

ART. 61. The position of the Associated States within the French Union shall in each case depend upon the act which defines its relationship with France.

ART. 62. The members of the French Union shall place in common all their resources to guarantee the defense of the whole Union. The Government of the Republic shall coordinate these resources and direct such policies as will prepare and ensure this defense.

##### *Section II: Organization*

ART. 63. The central organs of the French Union shall be: the Presidency, the High Council and the Assembly.

ART. 64. The President of the French Republic shall be the President of the French Union whose permanent interests he shall represent.

ART. 65. The High Council of the French Union, under the chairmanship of the President of the Union, shall be composed of a delegation of the French Government and of the representatives that each associated State is permitted to accredit to the President of the Union.

Its function shall be to assist the Government in the general conduct of the affairs of the Union.

ART. 66. The Assembly of the French Union shall be composed half of members representing Metropolitan France and half of members representing the overseas departments and territories and the Associated States.

An organic law shall determine the mode of representation of the different sections of the population.

ART. 67. The members of the Assembly of the Union shall be elected by the regional assemblies for the Overseas departments and Territories; for Metropolitan France, they shall be elected two-thirds by the National Assembly representing the home country and one-third by the Council of the Republic representing the home country.

ART. 68. The Associated States may appoint delegates to the Assembly of the Union within the limitations and conditions determined by a law and an internal legislative act of each State.

ART. 69. The President of the French Union shall convoke the Assembly of the French Union and shall close its sessions. He must convoke it upon the request of half of its members.

The Assembly of the French Union may not sit during interruptions of the sessions of the Parliament.

ART. 70. The rules set forth in Articles 8, 10, 21, 22 and 23 shall be applicable to the Assembly of the French Union under the same conditions as to the Council of the Republic.

ART. 71. The Assembly of the French Union shall examine the bills or proposals submitted to it by the National Assembly or the Government of the French Republic or the Governments of the Associated States in order that it may give its opinion thereon.

The Assembly shall have the power to express its opinion on resolutions submitted to it by one of its members and, if they meet with its approval, to instruct its secretariat to send them to the National Assembly. It may submit proposals to the French Government and to the High Council of the French Union.

In order to be admissible, the proposed resolutions referred to in the preceding paragraph must relate to legislation concerning the Overseas Territories.

ART. 72. Legislative power with regard to penal law, civil liberties and political and administrative organization in the Overseas Territories, shall rest with the Parliament.

In all other matters, French laws shall be applicable in the Overseas Territories only by an express provision to this effect or if they have been extended to the Overseas Territories by decree after consultation with the Assembly of the Union.

Moreover, as an exception to Article 13, special provisions for each territory may be enacted by the President of the Republic in the Council of Ministers after consultation with the Assembly of the Union.

##### *Section III: The Overseas Departments and Territories*

ART. 73. The legislative regime of the overseas departments shall be the same as that of the metropoli-



tan departments save for exceptions determined by the law.

ART. 74. The Overseas Territories shall be given special status which takes into account their particular interests within the framework of the general interests of the Union.

This status and the internal organization of each overseas territory or group of territories shall be determined by law after the Assembly of the French Union has expressed its opinion thereon and after consultation with the Territorial Assemblies.

ART. 75. The respective status of the members of the French Republic and of the French Union shall be subject to modifications.

Modifications of status and passage from one category to another within the framework established in Article 60 may take place only as the result of a law passed by the Parliament after consultation with the Territorial Assemblies and the Assembly of the Union.

ART. 76. The representative of the Government in each territory or group of territories shall be the repository of the powers of the Republic. He shall be the Administrative head of the territory.

He shall be responsible to the Government for his acts.

ART. 77. An elective Assembly shall be instituted in each territory. The electoral regime, composition and powers of this Assembly shall be determined by law.

ART. 78. In the groups of territories, the management of matters of common interest shall be entrusted to an Assembly composed of members elected by the Territorial Assemblies.

Its composition and its powers shall be determined by law.

ART. 79. The Overseas Territories shall elect representatives to the National Assembly and to the Council of the Republic under the conditions determined by the law.

ART. 80. All nationals of the Overseas Territories shall have the status of citizens, in the same capacity as French nationals of Metropolitan France or the Overseas Territories. Special laws shall determine the conditions under which they may exercise their rights as citizens.

ART. 81. All citizens and nationals of territories within the French Union shall have the status of citizens of the French Union, which ensures them the enjoyments of the rights and liberties guaranteed by the Preamble of the present Constitution.

ART. 82. Those citizens who do not have French civil status shall retain their personal status so long as they do not renounce it.

This status may in no case constitute a ground for refusing or restricting the rights and liberties pertaining to the status of French citizens.

#### TITLE IX. THE SUPERIOR COUNCIL OF THE JUDICIARY

ART. 83. The Superior Council of the Judiciary shall be composed of fourteen members:

- The President of the Republic, President;
- The Keeper of the Seals or Minister of Justice, Vice-President;
- Six persons elected for six years by the National Assembly, by a two-thirds majority and chosen outside its membership, and six alternates elected under the same conditions;
- Six persons designated as follows:
  - Four judges elected for six years under the conditions determined by the law, and representing each category of the judiciary, and four alternates elected under the same conditions;
  - Two members appointed for six years by the President of the Republic and chosen outside the membership of the Parliament and the judiciary, but from among the members of the legal profession, two alternates being designated under the same conditions.

The decisions of the Superior Council of the Magistracy shall be taken by majority vote. In case of a tie the President shall cast the deciding vote.

ART. 84. The President of the Republic shall appoint the judges whose names are submitted to him by the Superior Council of the Judiciary with the exception of those in the Office of the Public Prosecutor.

The Superior Council of the Judiciary, according to the law, shall ensure the discipline of these judges, their independence and the administration of the courts.

The presiding judges shall not be removable.

#### TITLE X. LOCAL ADMINISTRATIVE UNITS

ART. 85. The French Republic, one and indivisible, recognizes the existence of local administrative units.

These units are the communes, the departments and the overseas territories.

ART. 86. The framework, the scope, the eventual regrouping and the organization of the communes, the departments and the overseas territories, shall be determined by law.

ART. 87. The local administrative units shall be governed freely by councils elected by universal suffrage.

The mayor or the president of these councils shall ensure the carrying out of their decisions.

ART. 88. The coordination of the activities of Government officials, the representation of the national interests and the administrative control of these units shall be ensured within the departmental framework by delegates of the Government appointed in the Council of Ministers.

ART. 89. Organic laws will further extend the liberties of the departments and municipalities; for certain large cities they may establish rules of operation and an administrative structure different from those of small towns, and include special provisions for certain departments; they will determine the conditions under which Articles 85 and 88 above are to be applied.

Laws will likewise determine the conditions under which local agencies of central administrations are to

function, in order to bring the central administration closer to the people.

#### TITLE XI. AMENDMENT OF THE CONSTITUTION

ART. 90. Amendment of the Constitution shall take place in the following manner:

Amendment must be decided upon by a resolution adopted by an absolute majority of the members of the National Assembly.

This resolution shall stipulate the purpose of the amendment.

Not less than three months later this resolution shall have a second reading under the same rules of procedure as the first, unless the Council of the Republic, to which the resolution has been referred by the National Assembly, has adopted the same resolution by an absolute majority.

After this second reading, the National Assembly shall draw up a bill to amend the Constitution. The bill shall be submitted to the Parliament and adopted by the same majority and according to the same rules established for any ordinary act of the Legislature.

It shall be submitted to a referendum unless it has been adopted on second reading by a two-thirds majority of the National Assembly or by a three-fifths majority of each of the two assemblies.

The bill shall be promulgated as a constitutional law within eight days after its adoption.

No constitutional amendment relative to the existence of the Council of the Republic may be made without the concurrence of this Council or resort to a referendum.

ART. 91. The Constitutional Committee shall be presided over by the President of the Republic.

It shall include the President of the National Assembly, the President of the Council of the Republic, seven members elected by the National Assembly at the beginning of each annual session by proportional representation of party groups and chosen outside its own membership and three members elected under the same conditions by the Council of the Republic.

The Constitutional Committee shall determine whether the laws passed by the National Assembly imply amendment of the Constitution.

ART. 92. Within the period allowed for the promulgation of the law, the Committee shall receive a joint request that it examine said law from the President of the Republic and the President of the Council of the Republic, the Council having decided the matter by an absolute majority of its members.

The Committee shall examine the law, shall strive to bring about agreement between the National Assembly and the Council of the Republic and, if it does not succeed in this shall decide the matter within five days after it has received the request. This period may be reduced to two days in case of emergency.

The Committee shall be competent to decide on the possibility of amending only Titles I through X of the present Constitution.

ART. 93. A law which, in the opinion of the Committee, implies amendment of the Constitution shall

be sent back to the National Assembly for reconsideration.

If the Parliament adheres to its original vote, the law may not be promulgated until the Constitution has been amended according to the procedure set forth in Article 90.

If the law is considered to be in conformity with Title I through X of the present Constitution, it shall be promulgated within the period specified in Article 36, said period being prolonged by the addition of the period specified in Article 92 above.

ART. 94. In the case of occupation of all or part of the metropolitan territory by foreign forces, no procedure of amendment may be undertaken or continued.

ART. 95. The republican form of government may not be the subject of any proposal to amend the Constitution.

#### TITLE XII. TEMPORARY PROVISIONS

ART. 96. The secretariat of the National Constituent Assembly shall be responsible for ensuring the continuity of national representation until the meeting of the deputies of the new National Assembly.

ART. 97. In case of exceptional circumstances, the deputies of the National Constituent Assembly may, until the time specified in the preceding article, be called together by the secretariat of the Assembly, either on its own initiative or upon the request of the Government.

ART. 98. The National Assembly will meet automatically on the third Thursday following the general elections.

The Council of the Republic will meet on the third Tuesday following its election. The present Constitution will take effect on that date.

Until the meeting of the Council of the Republic, the organization of public powers will be governed by the law of November 2, 1945, the National Assembly having the attributes conferred by that law on the National Constituent Assembly.

ART. 99. The Provisional Government constituted under the terms of Article 98, will hand its resignation to the President of the Republic as soon as the latter is elected by the Parliament under the conditions set forth in Article 29 above.

ART. 100. The secretariat of the National Constituent Assembly shall be responsible for preparing the meeting of the Assemblies created by the present Constitution and especially for providing, before the meeting of their respective secretariats, the meeting places and administrative facilities necessary to their functioning.

ART. 101. During a period of not more than one year after the meeting of the National Assembly, the Council of the Republic may officially deliberate as soon as two-thirds of its members shall have been proclaimed elected.

ART. 102. The first Council of the Republic will be renewed entirely within the year following the renewal of the municipal councils, which renewal will

take place within one year after the promulgation of the Constitution.

ART. 103. Until the organization of the Economic Council and during a maximum period of three months dating from the meeting of the National Assembly the application of Article 25 of the present Constitution will be suspended.

ART. 104. Until the meeting of the Assembly of the French Union and during a maximum period of one year dating from the meeting of the National Assembly, the application of Articles 71 and 72 of the present Constitution will be suspended.

ART. 105. Until the promulgation of the laws provided for in Article 89 of the present Constitution, and without prejudice to the provisions fixing the status of the various departments and overseas territories, the departments and communes of the French Republic will be administered in accordance with the laws now in force, except for Paragraphs 2 and 3 of Article 97 of the law of April 5, 1884, for the enforcement of which the State police shall be placed at the disposal of the mayors.

However, the acts of the prefect in his capacity of

representative of the department, will be carried out by him under the permanent supervision of the president of the departmental assembly.

The provisions of the preceding paragraph shall not be applicable to the department of the Seine.

ART. 106. The present Constitution will be promulgated by the President of the Provisional Government of the Republic within two days after the date of the proclamation of the results of the referendum and in the following form:

The National Constituent Assembly has adopted,

The French people has approved,

The President of the Provisional Government of the Republic promulgates the Constitution that follows:

(Text of the Constitution)

The present Constitution, considered and adopted by the National Constituent Assembly and approved by the French people, shall become the law of the land.

*Paris, October 27, 1946.*

*(Journal Officiel, October 28, 1946)*

## APPENDIX B

# The Stalin Constitution (1936)<sup>1</sup>

### CHAPTER I. THE SOCIAL STRUCTURE

ART. 1. The Union of Soviet Socialist Republics is a socialist state of workers and peasants.

ART. 2. The political foundation of the U.S.S.R. is the Soviets of Working People's Deputies, which grew and became strong as a result of the overthrow of the power of the landlords and capitalists and the conquest of the dictatorship of the proletariat.

ART. 3. All power in the U.S.S.R. belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

ART. 4. The economic foundation of the U.S.S.R. is the socialist system of economy and the socialist ownership of the instruments and means of production, firmly established as a result of the liquidation of the capitalist system of economy, the abolition of private ownership of the instruments and means of production, and the elimination of the exploitation of man by man.

ART. 5. Socialist property in the U.S.S.R. exists either in the form of state property (belonging to the whole people) or in the form of cooperative and collective-farm property (property of collective farms, property of cooperative societies).

ART. 6. The land, its mineral wealth, waters, forests, mills, factories, mines, rail, water and air transport, banks, communications, large state-organized agricultural enterprises (state farms, machine and tractor stations and the like), as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial localities, are state property, that is, belong to the whole people.

ART. 7. The common enterprises of collective farms and cooperative organizations, with their livestock and implements, the products of the collective farms and cooperative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and cooperative organizations.

Every household in a collective farm, in addition to its basic income from the common, collective-farm enterprise, has for its personal use a small plot of household land and, as its personal property, a subsidiary husbandry on the plot, a dwelling house, livestock, poultry and minor agricultural implements—in accordance with the rules of the agricultural artel.

ART. 8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time, that is, in perpetuity.

ART. 9. Alongside the socialist system of economy, which is the predominant form of economy in the U.S.S.R., the law permits the small private economy of individual peasants and handicraftsmen based on their own labor and precluding the exploitation of the labor of others.

ART. 10. The personal property right of citizens in their incomes and savings from work, in their dwelling houses and subsidiary home enterprises, in articles of domestic economy and use and articles of personal use and convenience, as well as the right of citizens to inherit personal property, is protected by law.

ART. 11. The economic life of the U.S.S.R. is determined and directed by the state national-economic plan, with the aim of increasing the public wealth, of steadily raising the material and cultural standards of the working people, of consolidating the independence of the U.S.S.R. and strengthening its defensive capacity.

ART. 12. Work in the U.S.S.R. is a duty and a matter of honor for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the U.S.S.R. is that of socialism: "From each according to his ability, to each according to his work."

### CHAPTER II. THE STATE STRUCTURE

ART. 13. The Union of Soviet Socialist Republics is a federal state, formed on the basis of a voluntary union of equal Soviet Socialist Republics, namely:

The Russian Soviet Federative Socialist Republic  
The Ukrainian Soviet Socialist Republic  
The Byelorussian Soviet Socialist Republic  
The Uzbek Soviet Socialist Republic  
The Kazakh Soviet Socialist Republic  
The Georgian Soviet Socialist Republic  
The Azerbaijan Soviet Socialist Republic  
The Lithuanian Soviet Socialist Republic  
The Moldavian Soviet Socialist Republic  
The Latvian Soviet Socialist Republic  
The Kirghiz Soviet Socialist Republic

<sup>1</sup> As amended through June 17, 1950.

The Tajik Soviet Socialist Republic  
 The Armenian Soviet Socialist Republic  
 The Turkmen Soviet Socialist Republic  
 The Estonian Soviet Socialist Republic  
 The Karelo-Finnish Soviet Socialist Republic

ART. 14. The jurisdiction of the Union of Soviet Socialist Republics, as represented by its higher organs of state power and organs of state administration, embraces:

a) Representation of the U.S.S.R. in international relations, conclusion, ratification and denunciation of treaties of the U.S.S.R. with other states, establishment of general procedure governing the relations of Union Republics with foreign states;

b) Questions of war and peace;

c) Admission of new republics into the U.S.S.R.;

d) Control over the observance of the Constitution of the U.S.S.R. and ensuring conformity of the Constitutions of the Union Republics with the Constitution of the U.S.S.R.

e) Confirmation of alterations of boundaries between Union Republics;

f) Confirmation of the formation of new Territories and Regions and also of new Autonomous Republics and Autonomous Regions within Union Republics;

g) Organization of the defense of the U.S.S.R., direction of all the Armed Forces of the U.S.S.R., determination of directing principles governing the organization of the military formations of the Union Republics;

h) Foreign trade on the basis of state monopoly;

i) Safeguarding the security of the state;

j) Determination of the national-economic plans of the U.S.S.R.;

k) Approval of the consolidated state budget of the U.S.S.R. and of the report on its fulfillment; determination of the taxes and revenues which go to the Union, the Republican and the local budgets;

l) Administration of the banks, industrial and agricultural institutions and enterprises and trading enterprises of all-Union importance;

m) Administration of transport and communications;

n) Direction of the monetary and credit system;

o) Organization of state insurance;

p) Contracting and granting of loans;

q) Determination of the basic principles of land tenure and of the use of mineral wealth, forests and waters;

r) Determination of the basic principles in the spheres of education and public health;

s) Organization of a uniform system of national-economic statistics;

t) Determination of the principles of labor legislation;

u) Legislation concerning the judicial system and judicial procedure; criminal and civil codes;

v) Legislation concerning Union citizenship; legislation concerning rights of foreigners;

w) Determination of the principles of legislation concerning marriage and the family;

x) Issuing of all-Union acts of amnesty.

ART. 15. The sovereignty of the Union Republics is limited only in the spheres defined in Article 14 of the Constitution of the U.S.S.R. Outside of these spheres each Union Republic exercises state authority independently. The U.S.S.R. protects the sovereign rights of the Union Republics.

ART. 16. Each Union Republic has its own Constitution, which takes account of the specific features of the Republic and is drawn up in full conformity with the Constitution of the U.S.S.R.

ART. 17. The right freely to secede from the U.S.S.R. is reserved to every Republic.

ART. 18. The territory of a Union Republic may not be altered without its consent.

ART. 18a. Each Union Republic has the right to enter into direct relations with foreign states and to conclude agreements and exchange representatives with them.<sup>2</sup>

ART. 18b. Each Union Republic has its own Republican military formations.<sup>3</sup>

ART. 19. The laws of the U.S.S.R. have the same force within the territory of every Union Republic.

ART. 20. In the event of divergence between a law of a Union Republic and a law of the Union, the Union law prevails.

ART. 21. Uniform Union citizenship is established for citizens of the U.S.S.R.

Every citizen of a Union Republic is a citizen of the U.S.S.R.

ART. 22. The Russian Soviet Federative Socialist Republic consists of the Altai, Krasnodar, Krasnoyarsk, Primorye, Stavropol and Khabarovsk Territories; the Amur, Archangelsk, Astrakhan, Bryanks, Velikiye-Luki, Vladimir, Vologda, Voronezh, Gorky, Grozny, Ivanovo, Irkutsk, Kaliningrad, Kalinin, Kaluga, Kemerovo, Kirov, Kostroma, Crimea, Kuibyshev, Kurgan, Kursk, Leningrad, Molotov, Moscow, Murmansk, Novgorod, Novosibirsk, Omsk, Orel, Penza, Pskov, Rostov, Ryazan, Saratov, Sakhalin, Sverdlovsk, Smolensk, Stalingrad, Tambov, Tomsk, Tula, Tyumen, Ulyanovsk, Chelyabinsk, Chita, Chkalov and Yaroslavl Regions; the Tatar, Bashkir, Daghestan, Buryat-Mongolian, Kabardinian, Komi, Mari, Mordovian, North Ossetian, Udmurt, Chuvash and Yakut Autonomous Soviet Socialist Republics; and the Adygei, Gorno-Altai, Jewish, Tuva, Khakass and Cherkess Autonomous Regions.

ART. 23. The Ukrainian Soviet Socialist Republic consists of the Vinnitsa, Volhynia, Voroshilovgrad, Dnepropetrovsk, Drohobych, Zhitomir, Transcarpathian, Zaporozhye, Ismail, Kamenets-Podolsk, Kiev, Kirovograd, Lvov, Nikolayev, Odessa, Poltava, Rovno, Stalino, Stanislav, Sumi, Ternopol, Kharkov, Kherson, Chernigov and Chernovtsi Regions.

ART. 24. The Azerbaijani Soviet Socialist Republic includes the Nakhichevan Autonomous Soviet Socialist Republic and the Nagorno-Karabakh Autonomous Region.

<sup>2</sup> Right established by decree of February 1, 1944. (*Vedomosti* No. 8.) See also Article 60c.

<sup>3</sup> Since February 1, 1944. See also Article 60f.

ART. 25. The Georgian Soviet Socialist Republic includes the Abkhazian Autonomous Soviet Socialist Republic, the Adjara Autonomous Soviet Socialist Republic and the South Ossetian Autonomous Region.

ART. 26. The Uzbek Soviet Socialist Republic consists of the Andizhan, Bukhara, Kashka-Darya, Naman-gan, Samarkand, Surkhan-Darya, Tashkent, Ferghana and Khorezm Regions and the Kara-Kalpak Autonomous Soviet Socialist Republic.

ART. 27. The Tajik Soviet Socialist Republic consists of the Garm, Kulyab, Leninabad and Stalinabad Regions and the Gorno-Badakhshan Autonomous Region.

ART. 28. The Kazakh Soviet Socialist Republic consists of the Akmolinsk, Aktyubinsk, Alma-Ata, East Kazakhstan, Guriev, Jambul, West Kazakhstan, Karaganda, Kzyl-Orda, Kokchetav, Kustanai, Pavlodar, North Kazakhstan, Semipalatinsk, Taldy-Kurgan and South Kazakhstan Regions.

ART. 29. The Byelorussian Soviet Socialist Republic consists of the Baranovich, Bobruisk, Brest, Vitebsk, Gomel, Grodno, Minsk, Moghilev, Molodechno, Pinsk, Polessye and Polotsk Regions.

ART. 29a. The Turkmen Soviet Socialist Republic consists of the Ashkhabad, Mari, Tashauz and Chardzhou Regions.

ART. 29b. The Kirghiz Soviet Socialist Republic consists of the Dzhahal-Abad, Issyk-Kul, Osh, Talas, Tien-Shan and Frunze Regions.

### CHAPTER III. THE HIGHER ORGANS OF STATE POWER IN THE UNION OF SOVIET SOCIALIST REPUBLICS

ART. 30. The highest organ of state power in the U.S.S.R. is the Supreme Soviet of the U.S.S.R.

ART. 31. The Supreme Soviet of the U.S.S.R. exercises all rights vested in the Union of Soviet Socialist Republics in accordance with Article 14 of the Constitution, in so far as they do not, by virtue of the Constitution, come within the jurisdiction of organs of the U.S.S.R. that are accountable to the Supreme Soviet of the U.S.S.R., that is, the Presidium of the Supreme Soviet of the U.S.S.R., the Council of Ministers of the U.S.S.R., and the Ministries of the U.S.S.R.

ART. 32. The legislative power of the U.S.S.R. is exercised exclusively by the Supreme Soviet of the U.S.S.R.

ART. 33. The Supreme Soviet of the U.S.S.R. consists of two Chambers: the Soviet of the Union and the Soviet of Nationalities.

ART. 34. The Soviet of the Union is elected by the citizens of the U.S.S.R. voting by election districts on the basis of one deputy for every 300,000 of the population.

ART. 35. The Soviet of Nationalities is elected by the citizens of the U.S.S.R. voting by Union Republics, Autonomous Republics, Autonomous Regions, and National Areas on the basis of twenty-five deputies from each Union Republic, eleven deputies from each Autonomous Republic, five deputies from each Autonomous Region and one deputy from each National Area.

ART. 36. The Supreme Soviet of the U.S.S.R. is elected for a term of four years.

ART. 37. The two Chambers of the Supreme Soviet of the U.S.S.R., the Soviet of the Union and the Soviet of Nationalities have equal rights.

ART. 38. The Soviet of the Union and the Soviet of Nationalities have equal powers to initiate legislation.

ART. 39. A law is considered adopted if passed by both Chambers of the Supreme Soviet of the U.S.S.R. by a simple majority vote in each.

ART. 40. Laws passed by the Supreme Soviet of the U.S.S.R. are published in the languages of the Union Republics over the signatures of the President and Secretary of the Presidium of the Supreme Soviet of the U.S.S.R.

ART. 41. Sessions of the Soviet of the Union and of the Soviet of Nationalities begin and terminate simultaneously.

ART. 42. The Soviet of the Union elects a Chairman of the Soviet of the Union and four Vice-Chairmen.<sup>4</sup>

ART. 43. The Soviet of Nationalities elects a Chairman of the Soviet of Nationalities and four Vice-Chairmen.<sup>5</sup>

ART. 44. The Chairmen of the Soviet of the Union and the Soviet of Nationalities preside at the sittings of the respective Chambers and have charge of the conduct of their business and proceedings.

ART. 45. Joint sittings of the two Chambers of the Supreme Soviet of the U.S.S.R. are presided over alternately by the Chairman of the Soviet of the Union and the Chairman of the Soviet of Nationalities.

ART. 46. Sessions of the Supreme Soviet of the U.S.S.R. are convened by the Presidium of the Supreme Soviet of the U.S.S.R. twice a year.

Extraordinary sessions are convened by the Presidium of the Supreme Soviet of the U.S.S.R. at its discretion or on the demand of one of the Union Republics.

ART. 47. In the event of disagreement between the Soviet of the Union and the Soviet of Nationalities, the question is referred for settlement to a conciliation commission formed on a parity basis. If the conciliation commission fails to arrive at an agreement, or if its decision fails to satisfy one of the Chambers, the question is considered for a second time by the Chambers. Failing agreement between the two Chambers, the Presidium of the Supreme Soviet of the U.S.S.R. dissolves the Supreme Soviet of the U.S.S.R. and orders new elections.

ART. 48. The Supreme Soviet of the U.S.S.R. at a joint sitting of the two Chambers elects the Presidium of the Supreme Soviet of the U.S.S.R. consisting of a President of the Presidium of the Supreme Soviet of the U.S.S.R., sixteen Vice-Presidents, a Secretary of the Presidium and fifteen members of the Presidium of the Supreme Soviet of the U.S.S.R.

The Presidium of the Supreme Soviet of the U.S.S.R.

<sup>4</sup> A decree changing the number of Vice-Chairmen from two to four was adopted by the Supreme Soviet U.S.S.R. on June 17, 1950.

<sup>5</sup> *Ibid.*

is accountable to the Supreme Soviet of the U.S.S.R. for all its activities.

ART. 49. The Presidium of the Supreme Soviet of the U.S.S.R.:

- a) Convenes the sessions of the Supreme Soviet of the U.S.S.R.;
  - b) Issues decrees;
  - c) Gives interpretations of the laws of the U.S.S.R. in operation;
  - d) Dissolves the Supreme Soviet of the U.S.S.R. in conformity with Article 47 of the Constitution of the U.S.S.R. and orders new elections;
  - e) Conducts nation-wide polls (referendums) on its own initiative or on the demand of one of the Union Republics;
  - f) Annuls decisions and orders of the Council of Ministers of the U.S.S.R. and of the Council of Ministers of the Union Republics if they do not conform to law;
  - g) In the intervals between sessions of the Supreme Soviet of the U.S.S.R. releases and appoints Ministers of the U.S.S.R. on the recommendation of the Chairman of the Council of Ministers of the U.S.S.R., subject to subsequent confirmation by the Supreme Soviet of the U.S.S.R.;
  - h) Institutes decorations (orders and medals) and titles of honor of the U.S.S.R.;
  - i) Awards orders and medals and confers titles of honor of the U.S.S.R.;
  - j) Exercises the right of pardon;
  - k) Institutes military titles, diplomatic ranks and other special titles;
  - l) Appoints and removes the high command of the Armed Forces of the U.S.S.R.;
  - m) In the intervals between sessions of the Supreme Soviet of the U.S.S.R., proclaims a state of war in the event of military attack on the U.S.S.R., or when necessary to fulfill international treaty obligations concerning mutual defense against aggression;
  - n) Orders general or partial mobilization;
  - o) Ratifies and denounces international treaties of the U.S.S.R.;
  - p) Appoints and recalls plenipotentiary representatives of the U.S.S.R. to foreign states;
  - q) Receives the letters of credence and recall of diplomatic representatives accredited to it by foreign states;
  - r) Proclaims martial law in separate localities or throughout the U.S.S.R. in the interests of the defense of the U.S.S.R. or of the maintenance of public order and the security of the state.
- ART. 50. The Soviet of the Union and the Soviet of Nationalities elect Credentials Committees to verify the credentials of the members of the respective Chambers.
- On the report of the Credentials Committees, the Chambers decide whether to recognize the credentials of deputies or to annul their election.
- ART. 51. The Supreme Soviet of the U.S.S.R., when it deems necessary, appoints commissions of investigation and audit on any matter.

It is the duty of all institutions and officials to com-

ply with the demands of such commissions and to submit to them all necessary materials and documents.

ART. 52. A member of the Supreme Soviet of the U.S.S.R. may not be prosecuted or arrested without the consent of the Supreme Soviet of the U.S.S.R., or, when the Supreme Soviet of the U.S.S.R. is not in session, without the consent of the Presidium of the Supreme Soviet of the U.S.S.R.

ART. 53. On the expiration of the term of office of the Supreme Soviet of the U.S.S.R., or on its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the U.S.S.R. retains its powers until the newly-elected Supreme Soviet of the U.S.S.R. shall have formed a new Presidium of the Supreme Soviet of the U.S.S.R.

ART. 54. On the expiration of the term of office of the Supreme Soviet of the U.S.S.R., or in the event of its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the U.S.S.R. orders new elections to be held within a period not exceeding two months from the date of expiration of the term of office or dissolution of the Supreme Soviet of the U.S.S.R.

ART. 55. The newly-elected Supreme Soviet of the U.S.S.R. is convened by the outgoing Presidium of the Supreme Soviet of the U.S.S.R. not later than three months after the elections.

ART. 56. The Supreme Soviet of the U.S.S.R., at a joint sitting of the two Chambers, appoints the Government of the U.S.S.R., namely, the Council of Ministers of the U.S.S.R.

#### CHAPTER IV. THE HIGHER ORGANS OF STATE POWER IN THE UNION REPUBLICS

ART. 57. The highest organ of state power in a Union Republic is the Supreme Soviet of the Union Republic.

ART. 58. The Supreme Soviet of a Union Republic is elected by the citizens of the Republic for a term of four years.

The basis of representation is established by the Constitution of the Union Republic.

ART. 59. The Supreme Soviet of a Union Republic is the sole legislative organ of the Republic.

ART. 60. The Supreme Soviet of a Union Republic:

- a) Adopts the Constitution of the Republic and amends it in conformity with Article 16 of the Constitution of the U.S.S.R.;

- b) Confirms the Constitutions of the Autonomous Republics forming part of it and defines the boundaries of their territories;

- c) Approves the national-economic plan and the budget of the Republic;

- d) Exercises the right of amnesty and pardon of citizens sentenced by the judicial organs of the Union Republic;

- e) Decides questions of representation of the Union Republic in its international relations;

- f) Determines the manner of organizing the Republic's military formations.



ART. 61. The Supreme Soviet of a Union Republic elects the Presidium of the Supreme Soviet of the Union Republic, consisting of a President of the Presidium of the Supreme Soviet of the Union Republic, Vice-Presidents, a Secretary of the Presidium and members of the Presidium of the Supreme Soviet of the Union Republic.

The powers of the Presidium of the Supreme Soviet of a Union Republic are defined by the Constitution of the Union Republic.

ART. 62. The Supreme Soviet of a Union Republic elects a Chairman and Vice-Chairmen to conduct its sittings.

ART. 63. The Supreme Soviet of a Union Republic appoints the Government of the Union Republic, namely, the Council of Ministers of the Union Republic.

#### CHAPTER V. THE ORGANS OF STATE ADMINISTRATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS

ART. 64. The highest executive and administrative organ of the state power of the Union of Soviet Socialist Republics is the Council of Ministers of the U.S.S.R.

ART. 65. The Council of Ministers of the U.S.S.R. is responsible and accountable to the Supreme Soviet of the U.S.S.R., or, in the intervals between sessions of the Supreme Soviet, to the Presidium of the Supreme Soviet of the U.S.S.R.

ART. 66. The Council of Ministers of the U.S.S.R. issues decisions and orders on the basis and in pursuance of the laws in operation, and verifies their execution.

ART. 67. Decisions and orders of the Council of Ministers of the U.S.S.R. are binding throughout the territory of the U.S.S.R.

ART. 68. The Council of Ministers of the U.S.S.R.:

- a) Coordinates and directs the work of the all-Union and Union-Republican Ministries of the U.S.S.R. and of other institutions under its jurisdiction;
- b) Adopts measures to carry out the national-economic plan and the state budget, and to strengthen the credit and monetary system;
- c) Adopts measures for the maintenance of public order, for the protection of the interests of the state, and for the safeguarding of the rights of citizens;
- d) Exercises general guidance in the sphere of relations with foreign states;
- e) Fixes the annual contingent of citizens to be called up for military service and directs the general organization of the Armed Forces of the country;
- f) Sets up, whenever necessary, special Committees and Central Administrations under the Council of Ministers of the U.S.S.R. for economic and cultural affairs and defense.

ART. 69. The Council of Ministers of the U.S.S.R. has the right, in respect of those branches of administration and economy which come within the jurisdiction of the U.S.S.R., to suspend decisions and orders of the Councils of Ministers of the Union Republics

and to annul orders and instructions of Ministers of the U.S.S.R.

ART. 70. The Council of Ministers of the U.S.S.R. is appointed by the Supreme Soviet of the U.S.S.R. and consists of:

The Chairman of the U.S.S.R. Council of Ministers;  
The Deputy-Chairmen of the U.S.S.R. Council of Ministers;

The Chairman of the State Planning Committee of the U.S.S.R. Council of Ministers;

The Chairman of the State Committee of the U.S.S.R. Council of Ministers for the Material-Technical Supply of the National Economy;

The Chairman of the State Committee of the U.S.S.R. Council of Ministers for Introducing Advanced Techniques in the National Economy;

The Chairman of the State Committee of the U.S.S.R. Council of Ministers for Construction Affairs;

The U.S.S.R. Ministers;

The Chairman of the Committee on Art Affairs.

ART. 71. The Government of the U.S.S.R. or a Minister of the U.S.S.R. to whom a question of a member of the Supreme Soviet of the U.S.S.R. is addressed must give a verbal or written reply in the respective Chamber within a period not exceeding three days.

ART. 72. The Ministers of the U.S.S.R. direct the branches of state administration which come within the jurisdiction of the U.S.S.R.

ART. 73. The Ministers of the U.S.S.R., within the limits of the jurisdiction of their respective Ministries, issue orders and instructions on the basis and in pursuance of the laws in operation, and also of decisions and orders of the Council of Ministers of the U.S.S.R., and verify their execution.

ART. 74. The Ministries of the U.S.S.R. are either all-Union or Union-Republican Ministries.

ART. 75. Each all-Union Ministry directs the branch of state administration entrusted to it throughout the territory of the U.S.S.R. either directly or through bodies appointed by it.

ART. 76. The Union-Republic Ministries, as a rule, direct the branches of state administration entrusted to them through corresponding Ministries of the Union Republics; they administer directly only a definite and limited number of enterprises according to a list confirmed by the Presidium of the Supreme Soviet of the U.S.S.R.

ART. 77. The following Ministries are all-Union Ministries:

The Ministry of the Aircraft Industry  
The Ministry of the Automobile and Tractor Industry  
The Ministry of Foreign Trade  
The Ministry of the Navy  
The Ministry of Munitions  
The Ministry of Geological Survey  
The Ministry of Town Development  
The Ministry of State Food and Material Reserves  
The Ministry of Agricultural Stocks [Procurements]  
The Ministry of the Machine and Instrument-Making Industry

The Ministry of the Metallurgical [Iron and Steel] Industry  
 The Ministry of the Merchant Marine  
 The Ministry of the Oil Industry  
 The Ministry of the Communications Equipment Industry  
 The Ministry of Railways  
 The Ministry of Inland Water Transport [River Fleet]  
 The Ministry of Communications  
 The Ministry of the Agricultural Machinery Industry  
 The Ministry of the Machine-Tool Industry  
 The Ministry of the Building and Road-Building Machinery Industry  
 The Ministry of Construction of Machine-Building Works  
 The Ministry of Shipbuilding  
 The Ministry of the Transport Machinery Industry  
 The Ministry of Labor Reserves  
 The Ministry of Construction of Heavy Industry Works  
 The Ministry of the Heavy Machine-Building Industry  
 The Ministry of the Coal Mining Industry  
 The Ministry of the Chemical Industry  
 The Ministry of the Electrical Equipment Industry  
 The Ministry of Power Stations

ART. 78. The following Ministries are Union-Republican Ministries:

The Ministry of Internal Affairs  
 The Ministry of War  
 The Ministry of Higher Education  
 The Ministry of State Control  
 The Ministry of State Security  
 The Ministry of Public Health  
 The Ministry of Foreign Affairs  
 The Ministry of Cinematography  
 The Ministry of Light Industry  
 The Ministry of Forestry  
 The Ministry of the Timber and Paper Industry  
 The Ministry of the Meat and Dairy Industry  
 The Ministry of the Food Industry  
 The Ministry of the Building Materials Industry  
 The Ministry of the Fish Industry  
 The Ministry of Agriculture  
 The Ministry of State Farms  
 The Ministry of Trade  
 The Ministry of Finance  
 The Ministry of Cotton Growing  
 The Ministry of Justice

#### CHAPTER VI. THE ORGANS OF STATE ADMINISTRATION OF THE UNION REPUBLICS

ART. 79. The highest executive and administrative organ of the state power of a Union Republic is the Council of Ministers of the Union Republic.

ART. 80. The Council of Ministers of a Union Republic is responsible and accountable to the Supreme Soviet of the Union Republic, or in the intervals between sessions of the Supreme Soviet of the Union Republic, to the Presidium of the Supreme Soviet of the Union Republic.

ART. 81. The Council of Ministers of a Union Republic issues decisions and orders on the basis and in pursuance of the laws in operation of the U.S.S.R. and of the Union Republic, and of the decisions and orders of the Council of Ministers of the U.S.S.R., and verifies their execution.

ART. 82. The Council of Ministers of a Union Republic has the right to suspend decisions and orders of the Councils of Ministers of its Autonomous Republics, and to annul decisions and orders of the Executive Committees of the Soviets of Working People's Deputies of its Territories, Regions and Autonomous Regions.

ART. 83. The Council of Ministers of a Union Republic is appointed by the Supreme Soviet of the Union Republic and consists of:

The Chairman of the Council of Ministers of the Union Republic;  
 The Vice-Chairmen of the Council of Ministers;  
 The Chairman of the State Planning Commission;  
 The Ministers;  
 The Chief of the Arts Administration;  
 The Chairman of the Committee for Cultural and Educational Institutions.

ART. 84. The Ministers of a Union Republic direct the branches of state administration which come within the jurisdiction of the Union Republic.

ART. 85. The Ministers of a Union Republic, within the limits of the jurisdiction of their respective Ministries, issue orders and instructions on the basis and in pursuance of the laws of the U.S.S.R. and of the Union Republic, of the decisions and orders of the Council of Ministers of the U.S.S.R. and the Council of Ministers of the Union Republic, and of the orders and instructions of the Union-Republican Ministries of the U.S.S.R.

ART. 86. The Ministries of a Union-Republic are either Union-Republican or Republican Ministries.

ART. 87. Each Union-Republican Ministry directs the branch of state administration entrusted to it, and is subordinate both to the Council of Ministers of the Union Republic and to the corresponding Union-Republican Ministry of the U.S.S.R.

ART. 88. Each Republican Ministry directs the branch of state administration entrusted to it and is directly subordinate to the Council of Ministers of the Union Republic.

#### CHAPTER VII. THE HIGHER ORGANS OF STATE POWER IN THE AUTONOMOUS SOVIET SOCIALIST REPUBLICS

ART. 89. The highest organ of state power in an Autonomous Soviet Socialist Republic is the Supreme Soviet of the Autonomous Republic.

ART. 90. The Supreme Soviet of an Autonomous Republic is elected by the citizens of the Republic for a term of four years on a basis of representation established by the Constitution of the Autonomous Republic.

ART. 91. The Supreme Soviet of an Autonomous Republic is the sole legislative organ of the Autonomous Republic.

ART. 92. Each Autonomous Republic has its own Constitution, which takes account of the specific features of the Autonomous Republic and is drawn up in full conformity with the Constitution of the Union Republic.

ART. 93. The Supreme Soviet of an Autonomous Republic elects the Presidium of the Supreme Soviet of the Autonomous Republic and appoints the Council of Ministers of the Autonomous Republic, in accordance with its Constitution.

#### CHAPTER VIII. THE LOCAL ORGANS OF STATE POWER

ART. 94. The organs of state power in territories, regions, autonomous regions, areas, districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are the Soviets of Working People's Deputies.

ART. 95. The Soviets of Working People's Deputies of territories, regions, autonomous regions, areas, districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are elected by the working people of the respective territories, regions, autonomous regions, areas, districts, cities or rural localities for a term of two years.

ART. 96. The basis of representation for Soviets of Working People's Deputies is determined by the Constitutions of the Union Republics.

ART. 97. The Soviets of Working People's Deputies direct the work of the organs of administration subordinate to them, ensure the maintenance of public order, the observance of the laws and the protection of the rights of citizens, direct local economic and cultural affairs and draw up the local budgets.

ART. 98. The Soviets of Working People's Deputies adopt decisions and issue orders within the limits of the powers vested in them by the laws of the U.S.S.R. and of the Union Republic.

ART. 99. The executive and administrative organ of the Soviet of Working People's Deputies of a territory, region, autonomous region, area, district, city or rural locality is the Executive Committee elected by it, consisting of a Chairman, Vice-Chairman, a Secretary and members.

ART. 100. The executive and administrative organ of the Soviet of Working People's Deputies in a small locality, in accordance with the Constitution of the Union Republic, is the Chairman, the Vice-Chairman and the Secretary elected by it.

ART. 101. The executive organs of the Soviets of Working People's Deputies are directly accountable both to the Soviets of Working People's Deputies which elected them and to the executive organ of the superior Soviet of Working People's Deputies.

#### CHAPTER IX. THE COURTS AND THE PROCURATOR'S OFFICE

ART. 102. In the U.S.S.R. justice is administered by the Supreme Court of the U.S.S.R., the Supreme Courts of the Union Republics, the Courts of the Territories, Regions, Autonomous Republics, Autonomous Regions and Areas, the Special Courts of the

U.S.S.R. established by decision of the Supreme Soviet of the U.S.S.R., and the People's Courts.

ART. 103. In all courts cases are tried with the participation of people's assessors, except in cases specially provided for by law.

ART. 104. The Supreme Court of the U.S.S.R. is the highest judicial organ. The Supreme Court of the U.S.S.R. is charged with the supervision of the judicial activities of all the judicial organs of the U.S.S.R. and of the Union Republics.

ART. 105. The Supreme Court of the U.S.S.R. and the Special Courts of the U.S.S.R. are elected by the Supreme Soviet of the U.S.S.R. for a term of five years.

ART. 106. The Supreme Courts of the Union Republics are elected by the Supreme Soviets of the Union Republics for a term of five years.

ART. 107. The Supreme Courts of the Autonomous Republics are elected by the Supreme Soviets of the Autonomous Republics for a term of five years.

ART. 108. The Courts of Territories, Regions, Autonomous Regions and Areas are elected by the Soviets of Working People's Deputies of the respective Territories, Regions, Autonomous Regions or Areas for a term of five years.

ART. 109. People's Courts are elected by the citizens of the districts on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

ART. 110. Judicial proceedings are conducted in the language of the Union Republic, Autonomous Republic or Autonomous Region, persons not knowing this language being guaranteed the opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

ART. 111. In all Courts of the U.S.S.R. cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to defense.

ART. 112. Judges are independent and subject only to the law.

ART. 113. Supreme supervisory power to ensure the strict observance of the law by all Ministries and institutions subordinated to them, as well as by officials and citizens of the U.S.S.R. generally, is vested in the Procurator-General of the U.S.S.R.

ART. 114. The Procurator-General of the U.S.S.R. is appointed by the Supreme Soviet of the U.S.S.R. for a term of seven years.

ART. 115. Procurators of Republics, Territories, Regions, Autonomous Republics and Autonomous Regions are appointed by the Procurator-General of the U.S.S.R. for a term of five years.

ART. 116. Area, district and city procurators are appointed by the Procurators of the Union Republics, subject to the approval of the Procurator-General of the U.S.S.R., for a term of five years.

ART. 117. The organs of the Procurator's Office perform their functions independently of any local organs whatsoever, being subordinate solely to the Procurator-General of the U.S.S.R.

## CHAPTER X. FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

ART. 118. Citizens of the U.S.S.R. have the right to work, that is, the right to guaranteed employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

ART. 119. Citizens of the U.S.S.R. have the right to rest and leisure.

The right to rest and leisure is ensured by the establishment of an eight-hour day for factory and office workers, the reduction of the working day to seven or six hours for arduous trades and to four hours in shops where conditions of work are particularly arduous, by the institution of annual vacations with full pay for factory and office workers, and by the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

ART. 120. Citizens of the U.S.S.R. have the right to maintenance in old age and also in case of sickness or disability.

This right is ensured by the extensive development of social insurance of factory and office workers at state expense, free medical service for the working people, and the provision of a wide network of health resorts for the use of the working people.

ART. 121. Citizens of the U.S.S.R. have the right to education.

This right is ensured by universal and compulsory elementary education; by free education up to and including the seventh grade; by a system of state stipends for students of higher educational establishments who excel in their studies; by instruction in schools being conducted in the native language, and by the organization in the factories, state farms, machine and tractor stations, and collective farms of free vocational, technical and agronomic training for the working people.

ART. 122. Women in the U.S.S.R. are accorded equal rights with men in all spheres of economic, government, cultural, political and other public activity.

The possibility of exercising these rights is ensured by women being accorded an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by state protection of the interests of mother and child, state aid to mothers of large families and unmarried mothers, maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries, and kindergartens.

ART. 123. Equality of rights of citizens of the U.S.S.R., irrespective of their nationality or race, in all spheres of economic, government, cultural, political and other public activity, is an infeasible law.

Any direct or indirect restriction of the rights of, or conversely, the establishment of any direct or indirect privileges for, citizens on account of their race

or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

ART. 124. In order to ensure to citizens freedom of conscience, the church in the U.S.S.R. is separated from the state, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

ART. 125. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the U.S.S.R. are guaranteed by law:

- a) freedom of speech;
- b) freedom of the press;
- c) freedom of assembly, including the holding of mass meetings;
- d) freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisites for the exercise of these rights.

ART. 126. In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the U.S.S.R. are guaranteed the right to unite in public organizations: trade unions, cooperative societies, youth organizations, sport and defense organizations, cultural, technical and scientific societies; and the most active and politically conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and state.

ART. 127. Citizens of the U.S.S.R. are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

ART. 128. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

ART. 129. The U.S.S.R. affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for scientific activities, or for struggling for national liberation.

ART. 130. It is the duty of every citizen of the U.S.S.R. to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labor discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

ART. 131. It is the duty of every citizen of the U.S.S.R. to safeguard and fortify public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperity and culture of all the working people.

Persons committing offenses against public, socialist property are enemies of the People.

ART. 132. Universal military service is law.

Military service in the Armed Forces of the U.S.S.R. is an honorable duty of the citizens of the U.S.S.R.

ART. 133. To defend the country is the sacred duty of every citizen of the U.S.S.R. Treason to the motherland—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the state, espionage—is punishable with all the severity of the law as the most heinous of crimes.

#### CHAPTER XI. THE ELECTORAL SYSTEM

ART. 134. Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the U.S.S.R., the Supreme Soviets of the Union Republics, the Soviets of Working People's Deputies of the Territories and Regions, the Supreme Soviets of the Autonomous Republics, the Soviets of Working People's Deputies of the Autonomous Regions, and the area, district, city and rural (stanitsa, village, hamlet, kishlak, aul) Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, equal and direct suffrage by secret ballot.

ART. 135. Elections of deputies are universal: all citizens of the U.S.S.R. who have reached the age of eighteen, irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities, have the right to vote in the election of deputies, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Every citizen of the U.S.S.R. who has reached the age of twenty-three is eligible for election to the Supreme Soviet of the U.S.S.R., irrespective of race or nationality, sex, religion, education, domicile, social origin, property status or past activities.

ART. 136. Elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

ART. 137. Women have the right to elect and be elected on equal terms with men.

ART. 138. Citizens serving in the Armed Forces of the U.S.S.R. have the right to elect and be elected on equal terms with all other citizens.

ART. 139. Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the U.S.S.R., are elected by the citizens by direct vote.

ART. 140. Voting at elections of deputies is secret.

ART. 141. Candidates are nominated by election district.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, cooperatives, youth organizations and cultural societies.

ART. 142. It is the duty of every deputy to report to his electors on his work and on the work of his Soviet of Working People's Deputies, and he may be recalled at any time upon decision of a majority of the electors in the manner established by law.

#### CHAPTER XII. ARMS, FLAG, CAPITAL

ART. 143. The arms of the Union of Soviet Socialist Republics are a sickle and hammer against a globe depicted in the rays of the sun and surrounded by ears of grain, with the inscription "Workers of All Countries, Unite!" in the languages of the Union Republics. At the top of the arms is a five-pointed star.

ART. 144. The state flag of the Union of Soviet Socialist Republics is of red cloth with the sickle and hammer depicted in gold in the upper corner near the staff and above them a five-pointed red star bordered in gold. The ratio of the width to the length is 1:2.

ART. 145. The Capital of the Union of Soviet Socialist Republics is the City of Moscow.

#### CHAPTER XIII. PROCEDURE FOR AMENDING THE CONSTITUTION

ART. 146. The Constitution of the U.S.S.R. may be amended only by decision of the Supreme Soviet of the U.S.S.R. adopted by a majority of not less than two-thirds of the votes in each of its Chambers.

## APPENDIX C

# The Party Charter<sup>1</sup>

Adopted by the Eighteenth Congress

March 20, 1939

The Communist Party of the Soviet Union (Bolsheviks), as a Section of the Communist International, is the organized vanguard of the working class of the Union of Soviet Socialist Republics, the highest form of its class organization. In its activities the Party is guided by the theory of Marxism-Leninism.

The Party exercises the leadership of the working class, the peasantry, the intelligentsia, of the entire Soviet people, in the struggle for the consolidation of the dictatorship of the working class, for the consolidation and development of the socialist system, for the victory of communism.

The Party is the guiding nucleus of all organizations of the working people, both public and state, and ensures the successful construction of the communist society.

The Party is a united militant organization bound together by a conscious discipline which is equally binding on all its members. The Party is strong because of its solidarity, unity of will and unity of action, which are incompatible with any deviation from its program and rules, with any violation of Party discipline, with factional groupings, or with double-dealing. The Party purges its ranks of persons who violate its program, rules or discipline.

The Party demands from its members active and self-sacrificing work in carrying out its program and rules, in fulfilling all decisions of the Party and its bodies, and in ensuring the unity of its ranks and the consolidation of fraternal international relations among the working people of the nationalities of the U.S.S.R. as well as with the proletarians of all countries of the world.

### I. PARTY MEMBERS, THEIR DUTIES AND RIGHTS

1. A Party member is one who accepts the program of the Party, works in one of its organizations, submits to its decisions and pays membership dues.

2. It is the duty of a Party member:

a) To work untiringly to improve his political knowl-

<sup>1</sup> Newly added parts or Articles are introduced by a †.

edge and to master the principles of Marxism-Leninism;

b) Strictly to observe Party discipline, to take an active part in the political life of the Party and the country, and to carry into practice the policy of the Party and the decisions of its bodies;

c) To set an example in the observance of labor and state discipline, to master the technique of his work and constantly to improve his industrial or business qualifications;

d) Constantly to strengthen the ties with the masses, promptly to respond to the needs and demands of the working people, and to explain to the masses the policy and decisions of the Party.

3. A Party member has the right:

a) To take part in the free and business-like discussion at Party meetings or in the Party press of practical questions of Party policy;

b) To criticize any Party worker at Party meetings;

c) To elect and be elected to Party organs;

d) To demand to be present in person whenever decisions are taken regarding his activities or conduct;

e) To address any question or statement to any Party body, up to and including the Central Committee of the C.P.S.U.(B.).

4. Members are admitted to the Party only individually. New members are admitted from among the candidate members who have been through the specified probationary period. Membership of the Party is open to conscientious and active workers, peasants and intellectuals who are devoted to the cause of communism.

Persons may join the Party on attaining the age of eighteen.

The procedure of admission of candidate members to full Party membership is as follows:

a) Applicants for Party membership must submit recommendations from three Party members who have a Party standing of not less than three years and who know the applicants from having worked with them for not less than one year.

(Note 1. In the case of members of the Young Communist League applying for membership of the Party, the recommendation of a district committee of the

Y.C.L. is equivalent to the recommendation of one Party member.)

(Note 2. Members and alternate members of the Central Committee of the C.P.S.U.(B.) shall refrain from giving recommendations.)

b) Applications for Party membership are discussed and decided at the general meeting of a primary Party organization, whose decision takes effect after endorsement by the district Party committee, or by the city Party committee in cities with no district divisions.

The presence of the recommenders at the discussion of applications for Party membership is not essential.

c) Persons up to the age of twenty may join the Party only through the Young Communist League.

d) Former members of other parties are admitted to the C.P.S.U.(B.) in exceptional cases and require the recommendation of five Party members: three of ten years' Party standing and two of pre-revolutionary Party standing. They may be admitted only through a primary Party organization, and the endorsement of the Central Committee of the C.P.S.U.(B.) is essential.

5. Persons recommending applicants for admission to the Party are responsible for their bona fides.

6. The Party standing of a candidate member admitted to full membership dates from the day of the decision of the general meeting of the primary Party organization to adopt him as full member.

7. A member of one Party organization who removes to the locality of another Party organization shall be entered on the membership rolls of the latter.

(Note: The transfer of Party members from one organization to another is effected in accordance with regulations laid down by the Central Committee of the C.P.S.U.(B.).)

8. A Party member or candidate member who fails to pay membership dues for three months in succession without sufficient reason is regarded as having dropped out of the Party; a decision to this effect is taken by the primary Party organization and is subject to endorsement by the Party district committee or city committee.

9. The question of the expulsion of any member from the Party is decided by the general meeting of the primary Party organization to which he belongs and must be endorsed by the Party district or city committee. The decision of a district or city committee to expel a member takes effect only when endorsed by the regional committee, territorial committee, or Central Committee of the Communist Party of a Union Republic.

10. Until such time as his expulsion is endorsed by the regional committee, territorial committee or Central Committee of a Communist Party of a Union Republic, the Party member retains his membership card and is entitled to attend closed Party meetings.

Regional committees, territorial committees and Central Committees of Communist Parties of Union Republics shall announce in the local Party press the expulsion of Party members and indicate the reasons for expulsion, and shall likewise announce the reinstatement of persons wrongfully expelled from the Party.

†11. When the question of the expulsion of a Party member or the reinstatement of an expelled member is discussed, the maximum caution and comradely consideration must be exercised, and the grounds for the accusations brought against the Party member thoroughly investigated.

In the case of minor offenses (failure to attend meetings, unpunctual payment of membership dues, etc.) the measures of Party education and influence specified in the Rules should be applied, and not expulsion from the Party, which is the supreme Party penalty.

†12. Appeals against expulsion from the Party must be examined by the Party bodies to which they are addressed within not more than two weeks from the date of receipt.

## II. CANDIDATE MEMBERS

13. All persons desirous of joining the Party must pass through a probationary period as candidate members, the object of which is to give them an opportunity to familiarize themselves with the program, rules and tactics of the Party and to enable the Party organizations to test the personal qualities of the candidates.

14. The procedure of admission of candidate members (individual admission, submission of recommendations and their verification, decision of the primary organization as to admission and the endorsement of the decision) is identical with the procedure of admission of Party members.

15. The period of probationary membership is fixed at one year.

16. Candidate members attend the meetings of the organization to which they are attached, and have a voice but no vote.

17. Candidate members pay the usual membership dues to the local Party committee.

## III. ORGANIZATIONAL STRUCTURE OF THE PARTY, INNER-PARTY DEMOCRACY

18. The guiding principle of the organizational structure of the Party is democratic centralism, which signifies:

a) The election of all leading Party bodies, from the highest to the lowest;

b) Periodical reports of the Party bodies to their Party organizations;

c) Strict Party discipline and subordination of the minority to the majority;

d) The absolutely binding character of the decisions of higher bodies upon lower bodies.

19. The Party is built on the territorial-industrial principle: a Party organization serving a given area is regarded as higher than any Party organization serving part of that area; and a Party organization serving a whole branch of work is regarded as higher than any Party organization serving part of that branch of work.

20. All Party organizations are autonomous in the



decision of local questions, provided that their decisions do not conflict with the decisions of the Party.

21. The highest governing body in each Party organization is the general membership meeting (in the case of primary organizations), conference (e.g., in the case of district or regional organizations), or congress (in the case of Communist Parties of Union Republics and in the case of the C.P.S.U.(B.)).

22. The general meeting, conference or congress elects a bureau or committee which acts as its executive body and directs all the current work of the particular organization.

23. Voting by lists of candidates in the election of Party bodies is forbidden. Voting shall be by individual candidates, every Party member being ensured the unlimited right to challenge the candidates nominated and to criticize them. Voting of candidates shall be by secret ballot.

24. In all republican, territorial and regional centres, as well as in the larger industrial centres, meetings of the active members (*actives*) of the city Party organizations shall be convened for the discussion of the more important decisions of the Party and the Government. *Actives* shall be convened not for parade and the formal and ceremonial approval of decisions, but for their genuine discussion.

In large centres, meetings of district as well as city Party *actives* shall be convened.

25. The free and business-like discussion of questions of Party policy in individual organizations or in the Party as a whole is the inalienable right of every Party member and logically follows from inner-party democracy. Only on the basis of inner-party democracy is it possible to develop Bolshevik self-criticism and to strengthen Party discipline, which must be conscious and not mechanical. But wide discussion, especially discussion on an All-Union scale, of questions of Party policy must be so organized as to prevent it leading to attempts by an insignificant minority to impose their will upon the vast majority of the Party, or to attempts to form factional groupings which break the unity of the Party, attempts at splits which may shake the strength and firmness of the dictatorship of the working class. Therefore, a wide discussion on an All-Union scale can be regarded as necessary only if: a) this necessity is recognized by at least several local Party organizations of the scale of a region or republic; b) if there is not a sufficiently solid majority on the Central Committee of the C.P.S.U.(B.) on important questions of Party policy; c) if in spite of the existence of a solid majority on the Central Committee of the C.P.S.U.(B.) advocating a definite standpoint, the Central Committee still deems it necessary to test the correctness of its policy by means of a discussion in the Party. Only compliance with these conditions can safeguard the Party against abuse of inner-Party democracy by anti-Party elements, only under these conditions is it possible to count on inner-Party democracy benefiting the cause and on it not being used to the detriment of the Party and the working class.

26. The scheme of Party organization is as follows:

a) Party as a whole—All-Union Congress, Central Committee of the C.P.S.U.(B.), All-Union Conference;  
b) Regions, territories, Union Republics—regional or territorial conferences, congresses of the Communist Parties of Union Republics, regional committees, territorial committees, Central Committees of the Communist Parties of the Union Republics;

c) Areas—area conferences, area committees;

d) Cities, districts—city and district conferences, city and district committees;

e) Factories, villages, collective farms, machine and tractor stations, units of the Red Army and Navy, offices—general meetings, conferences of primary Party organizations, bureaux of primary Party organizations.

27. The Central Committee of the C.P.S.U.(B.) has the following administrations and departments for the performance of the practical work involved in carrying out of Party decisions: a) Cadres Administration,<sup>2</sup> b) Propaganda and Agitation Administration, c) Organization and Instruction Department, d) Agricultural Department, e) School Department; in the area committees, regional committees, territorial committees and Central Committees of the Communist Parties of Union Republics: a) Cadres Department, b) Propaganda and Agitation Department, c) Organization and Instruction Department, d) Agricultural Department, e) Military Department; in the city committees and district committees: a) Cadres Department, b) Propaganda and Agitation Department, c) Organization and Instruction Department, d) Military Department.<sup>3</sup>

It is the function of the Military Departments to assist the military authorities in organizing the registration of persons liable to military service, in the calling up of recruits, in mobilization in the event of war, in the organization of air defence, etc.

The direction of the Propaganda and Agitation Departments and the Cadres Departments of regional committees, territorial committees and Central Committees of the Communist Parties of the Union Republics shall be entrusted to special secretaries.

28. Every Party organization, once it is finally confirmed, has the right to have its own seal, but only with the sanction of the competent higher Party organization.

#### IV. HIGHER PARTY ORGANS

29. The supreme organ of the C.P.S.U.(B.) is the Party Congress. Ordinary congresses are convened not less than once in three years. Extraordinary congresses are convened by the Central Committee of the C.P.S.U.(B.) on its own initiative or at the demand of not less than one-third of the total membership rep-

<sup>2</sup> Abolished in late 1948 when a uniform system of economic sections was established (for Agriculture, Machine Construction, Heavy Industry, Light Industry, Transport and Communications, Administration of, including government, military affairs, science, education—and Planning, Finance and Trade). Placement of personnel is now handled by these sections. (*Pravda*, August 10, 1949.)

<sup>3</sup> See note 2.

resented at the preceding Party congress. The convocation of a Party Congress and its agenda shall be announced not later than six weeks before the Congress. Extraordinary congresses shall be convened within two months.

The Congress is regarded as properly constituted if the delegates represent not less than one-half of the total Party membership represented at the preceding ordinary congress.

The basis of representation at a Party Congress is determined by the Central Committee of the C.P.S.U.(B.).

30. In the event of the Central Committee of the C.P.S.U.(B.) failing to call an extraordinary congress within the period specified in clause 29, the organizations which demanded it have the right to form an Organization Committee which shall enjoy the powers of the Central Committee of the C.P.S.U.(B.) as regards the convocation of the extraordinary congress.

31. The Congress:

a) Hears and acts on the reports of the Central Committee of the C.P.S.U.(B.), of the Central Auditing Commission, and of other central organizations;

b) Revises and amends the program and rules of the Party;

c) Determines the tactical line of the Party on major questions of current policy;

d) Elects the Central Committee of the C.P.S.U.(B.) and the Central Auditing Commission.

32. The number of members to be elected to the Central Committee of the C.P.S.U.(B.) and to the Central Auditing Commission is determined by the Congress. In the event of members dropping out of the Central Committee of the C.P.S.U.(B.), their places are filled from among the alternate members elected by the Congress.

33. The Central Committee of the C.P.S.U.(B.) holds not less than one plenary meeting every four months. Alternate members of the Central Committee of the C.P.S.U.(B.) attend its plenary meetings with voice but no vote.

34. The Central Committee of the C.P.S.U.(B.) sets up a Political Bureau for political work, an Organization Bureau for the general direction of organizational work, a Secretariat for current work of an organizational or executive nature and a Party Control Commission to keep check on the way decisions of the Party and the Central Committee of the C.P.S.U.(B.) are fulfilled.

35. The Party Control Commission:

a) Keeps a check on the way the decisions of the Party and of the Central Committee of the C.P.S.U.(B.) are fulfilled by Party organizations and Soviet and economic bodies;

b) Investigates the work of local Party organizations;

c) Takes action against those who have violated the program or rules of the C.P.S.U.(B.), or Party discipline;

36. The Central Committee of the C.P.S.U.(B.) guides the entire work of the Party in the interval between congresses, represents the Party in its relations with other parties, organizations and institutions, sets

up various Party institutions and guides their activities, appoints the editorial boards of the central organs under its control and confirms the appointment of the editorial boards of the Party organs of big local organizations, organizes and manages enterprises of a public character, distributes the forces and resources of the Party and manages the central funds.

The Central Committee of the C.P.S.U.(B.) directs the work of the central Soviet and public organizations through the Party groups within them.

37. In the interval between Party congresses the Central Committee of the C.P.S.U.(B.) convenes, not less than once a year, an All-Union Party Conference consisting of the representatives of the local Party organizations for the discussion of urgent problems of Party policy.

The delegates to the All-Union Conference are elected at plenary meetings of regional committees, territorial committees, and the Central Committee of the Communist Parties of the Union Republics.

The procedure for the election of delegates to the All-Union Conference and the basis of representation are determined by the Central Committee of the C.P.S.U.(B.).

Members of the Central Committee of the C.P.S.U.(B.) who have not been elected as delegates from local organizations have a voice at the All-Union Conference, but no vote.

38. The All-Union Conference has the right to replace part of the membership of the Central Committee of the C.P.S.U.(B.), that is, to remove such members of the Central Committee as have failed to cope with their duties as members of that body, and to replace them by others, in a number, however, not exceeding one-fifth of the membership of the Central Committee elected at the Party Congress.

The All-Union Conference replenishes the membership of the Central Committee of the C.P.S.U.(B.) from among the alternate members of that body elected by the Party Congress, and elects in their place a corresponding number of new alternate members.

39. The decisions of the All-Union Conference are subject to endorsement by the Central Committee of the C.P.S.U.(B.), with the exception of decisions to replace members of the Central Committee and to elect new members and alternate members to that body.

Decisions of the All-Union Conference endorsed by the Central Committee of the C.P.S.U.(B.) are binding on all Party organizations.

40. In order to strengthen Bolshevik leadership and political work, the Central Committee of the C.P.S.U.(B.) has the right to create Political Departments and to assign Party organizers of the Central Committee of the C.P.S.U.(B.) to lagging sectors of socialist construction which have acquired special importance for the national economy and the country in general; and, in the measure that the Political Departments complete their urgent tasks, to convert them into ordinary Party organs on the industrial-territorial principle.

The work of the Political Departments is governed

by special instructions endorsed by the Central Committee of the C.P.S.U.(B.).

41. The Central Committee of the C.P.S.U.(B.) keeps the Party organizations regularly informed of its work.

42. The Central Auditing Commission: a) investigates whether affairs are handled expeditiously and properly by the central organs of the Party and whether the apparatus of the Secretariat of the Central Committee of the C.P.S.U.(B.) is working smoothly, and b) audits the accounts of the treasury and the enterprises of the Central Committee of the C.P.S.U.(B.).

#### V. THE REGIONAL, TERRITORIAL AND REPUBLICAN PARTY ORGANIZATIONS

43. The highest organ of a regional, territorial or republican Party organization is the regional or territorial Party conference or the Congress of the Communist Party of the Union Republic, and, in the interval between them, the regional committee, territorial committee or Central Committee of the Communist Party of the Union Republic. They guide themselves in their activities by the decisions of the Communist Party of the Soviet Union (Bolsheviks) and its leading bodies.

44. Ordinary regional or territorial conferences or congresses of the Communist Parties of Union Republics are convened once every eighteen months by the particular regional or territorial committee or Central Committee of the Communist Party of the Union Republic. Extraordinary conferences or congresses are convened by decision of the particular regional committee, territorial committee or Central Committee of the Communist Party of the Union Republic, or at the demand of one-third of the total membership of the organizations belonging to the regional, territorial or republican Party organization.

The basis of representation at regional or territorial conferences or congresses of Communist Parties of Union Republics is determined by the particular regional committee, territorial committee or Central Committee of the Communist Party of the Union Republic.

Regional and territorial conferences and congresses of Communist Parties of Union Republics hear and act on the reports of the regional or territorial committee, or Central Committee of the Communist Party of the Union Republic, of the Auditing Commission and of the other regional, territorial or republican organizations, discuss questions of Party, Soviet, Economic and trade union work in the particular region, territory or republic, and elect a regional committee, territorial committee or Central Committee of the Communist Party of the Union Republic, as the case may be, an Auditing Commission and delegates to the All-Union Congress of the Party.

45. Regional and territorial committees and Central Committees of the Communist Parties of the Union Republics each appoint an executive body for the performance of current work, consisting of not more than

eleven persons and of four or five secretaries, including a first secretary, a second secretary, a cadres secretary and a propaganda secretary, to be confirmed by the Central Committee of the C.P.S.U.(B.). The secretaries must have a Party standing of not less than five years.

46. The regional committees, territorial committees and Central Committees of the Communist Parties of the Union Republics organize various Party institutions within their particular region, territory or republic, guide their activities, appoint the editorial board of the regional, territorial or republican Party organ which works under their control, direct the Party groups in the non-Party organizations, organize and conduct their own enterprises of general importance to the particular region, territory or republic, distribute within the limits of their organization the forces and resources of the Party, and manage the Party funds of the region, territory or republic.

47. Plenary meetings of regional committees, territorial committees and Central Committees of the Communist Parties of the Union Republics are convened at least once every three months.

48. Party organizations in autonomous republics and in national and other regions forming part of a territory or Union Republic work under the direction of their particular territorial committee or Central Committee of the Communist Party of the Union Republic and guide their internal life by the regulations set forth in Section V of the Party Rules relating to regional, territorial and republican organizations.

#### VI. AREA PARTY ORGANIZATIONS

49. Area Party organizations are formed in regions, territories and republics which have areas.

The highest organ of an area Party organization is the Area Party Conference which is convened by the area committee at least once in eighteen months; extraordinary conferences are convened by decision of the area committee or at the demand of one-third of the total membership of the organizations belonging to the area organization.

The area conference hears and acts on the reports of the area committee, the auditing commission and the other area Party organizations, elects the area Party committee, the auditing commission and the delegates to the regional or territorial conference, or the congress of the Communist Party of the Union Republic.

50. Each area committee elects a bureau consisting of not more than nine persons and four secretaries—a first secretary, a second secretary, a cadres secretary and a propaganda secretary. The secretaries must have a Party standing of not less than three years. Secretaries of area committees must be confirmed by the regional committee, territorial committee or Central Committee of the Communist Party of the Union Republic.

51. Area committees organize various Party institutions within the area and direct their activities, appoint the editorial board of the area Party organ which works under their direction and control, direct the

Party groups in non-Party organizations, organize their own enterprises of importance to their area, distribute within the limits of their area the forces and resources of the Party, and manage the area Party funds.

#### VII. CITY AND DISTRICT (RURAL AND URBAN) PARTY ORGANIZATIONS

52. City and district Party conferences are convened by the city and district committees at least once a year; extraordinary conferences are convened by decision of the city or district committee, or at the demand of one-third of the total membership of the organizations in the city or district.

The city or district conference hears and acts on the reports of the city or district committee, of the auditing commission and other city or district institutions, elects the city or district committee, the auditing commission and the delegates to territorial or regional conference or the congress of the Communist Party of the Union Republic.

53. Each city or district committee elects a bureau consisting of from seven to nine persons and three secretaries. Secretaries of city and district committees must have a Party standing of not less than three years. Secretaries of city and district committees must be confirmed by the regional committee, territorial committee or Central Committee of the Communist Party of the Union Republic.

54. The city or district committee organizes and confirms the primary Party organizations in industrial enterprises, state farms, machine and tractor stations, collective farms and offices, keeps a register of Communists, organizes various Party institutions in the city or district and guides their activities, appoints the editorial board of the city or district Party organ which works under its direction and control, directs the Party groups in the non-Party organizations, organizes its own enterprises of general importance for the city or district, distributes the forces and resources of the Party in the city or district, and manages the city or district Party funds. The city or district committee submits to the regional committee, territorial committee or Central Committee of the Communist Party of the Union Republic reports on its activities at times and in the form established by the Central Committee of the C.P.S.U.(B.).

55. Plenary meetings of the city or district committee are convened not less than once in six weeks.

56. In big cities, district organizations subordinate to the city committee may be set up with the permission of the Central Committee of the C.P.S.U.(B.).

#### VIII. PRIMARY PARTY ORGANIZATIONS

57. The primary Party organizations are the basis of the Party.

Primary Party organizations are set up in mills, factories, state farms, machine and tractor stations and other economic establishments, in collective farms, units of the Red Army and Navy, in villages, offices,

educational establishments, etc., where there are not less than three Party members.

In factories, collective farms, offices, etc., where there are less than three Party members, candidate member or Party and Young Communist League groups are set up headed by a Party organizer appointed by the district committee, city committee or political department.

Primary Party organizations are confirmed by the district or city committees or by the competent political departments.

58. In factories, offices, collective farms, etc., where there are over one hundred Party members and candidate members, shop, sectional, departmental, etc., Party organizations may be formed within the general primary Party organization covering the whole factory, office, etc., subject to the approval in each particular case of the district or city committee or of the political department, as the case may be.

Within the shop, sectional, etc., organizations, and within primary Party organizations with less than one hundred members and candidate members, Party groups may be formed in the brigades or machine units of the enterprise.

59. In large factories and offices where there are over five hundred Party members and candidate members, factory committees may be formed, the sanction of the Central Committee of the C.P.S.U.(B.) being required in every case; the shop Party organizations in such establishments are granted the rights of primary Party organizations.

60. The primary Party organization connects the mass of the workers, peasants and intellectuals with the leading organs of the Party. Its task is:

a) To conduct agitational and organizational work among the masses for the carrying out of the Party slogans and decisions, and to ensure effective leadership of the factory press;

b) To recruit new members for the Party and to organize their political education;

c) To assist the district committee, city committee or political department in all its practical work;

d) To mobilize the efforts of the masses in the factories, state farms, collective farms, etc., for the fulfillment of the production plan, for the strengthening of labor discipline and for the development of socialist emulation and shock work;

e) To combat laxity and mismanagement in factories, state farms and collective farms, and to show a daily concern for the improvement of the cultural and living conditions of the workers and collective farmers;

f) To take an active part in the economic and political life of the country.

†61. In order to enhance the role of the primary Party organizations in productive establishments, including state farms, collective farms and machine and tractor stations, and their responsibility for the state of the work in the establishments, these organizations have the right of control over the work of the management of their particular establishments.

It is the duty of Party organizations in People's Com-

missariats, which, owing to the specific conditions of their work, cannot exercise functions of control to draw attention to defects in the work of their institution, to note shortcomings in the work of the People's Commissariat and of any of its personnel and to communicate their information and opinions to the Central Committee of the C.P.S.U.(B.) and to the heads of the People's Commissariat.

Secretaries of primary Party organizations in People's Commissariats are endorsed by the Central Committee of the C.P.S.U.(B.).

All Communists working in the central apparatus of a People's Commissariat belong to one general Party organization of the People's Commissariat.

62. For the performance of current work the primary Party organization elects a bureau consisting of not more than eleven persons for a term of one year.

Bureaus of primary Party organizations are formed in organizations with not less than fifteen members.

In Party organizations having less than fifteen members, no bureaus are formed, but a secretary of the primary Party organization is elected.

With the object of rapidly training and educating Party members in collective leadership, a shop Party organization with not less than fifteen and not more than one hundred members has the right to elect a bureau of the shop Party organization consisting of from three to five persons; a shop organization with over one hundred members may elect a bureau of from five to seven persons.

In primary Party organizations with not more than one hundred Party members, the Party work is conducted as a rule by comrades who are not exempted from their regular jobs.

Primary Party organizations with about one thousand Party members have two to three paid workers, and organizations with about three thousand or more members, four or five full-time workers.

Secretaries of primary and shop Party organizations must have a Party standing of at least one year.

#### IX. †THE PARTY AND THE YOUNG COMMUNIST LEAGUE <sup>4</sup>

63. The Leninist Young Communist League conducts its activities under the guidance of the C.P.S.U.(B.). The Central Committee of the Y.C.L., as its leading body, is subordinated to the Central Committee of the C.P.S.U.(B.). The activities of the local organizations of the Y.C.L. are directed and controlled by the appropriate republican, territorial, regional, city and district organizations of the Party.

64. Members of the Y.C.L. shall retire from that body from the moment they become members or candidate members of the Party, provided they do not fill leading posts in the Y.C.L. organizations.

65. The Y.C.L. is an active assistant of the Party in all state and economic work. The Y.C.L. organizations must be in effect active vehicles of the Party's directions in all spheres of socialist construction, especially where there are no primary Party organizations.

66. Y.C.L. organizations enjoy wide initiative in discussing and submitting to the appropriate Party organizations all questions designed to remove defects in the work of their factory, collective farm, state farm or office and to help them to improve their work, to organize socialist emulation and shock work, to conduct mass campaigns, etc.

#### X. PARTY ORGANIZATIONS IN THE RED ARMY AND NAVY AND IN THE TRANSPORT SYSTEM <sup>5</sup>

67. The guidance of Party work in the Workers' and Peasants' Red Army is exercised by the Political Administration of the Workers' and Peasants' Red Army which functions as the Military Department of the Central Committee of the C.P.S.U.(B.), and in the Workers' and Peasants' Navy and in the transport system by the Political Administration of the Navy and the Political Administrations of the transport system which function respectively as the Naval Department and the corresponding Transport Department of the Central Committee of the C.P.S.U.(B.).

The Political Administrations of the Red Army, the Navy, and the transport system perform their work of guidance through Political Departments, Military Commissars and Party organizers appointed by them, and through Party Commissions elected at army, Navy and railway conferences.

Party organizations in the Red Army, Navy and in the transport system work on the basis of special instructions confirmed by the Central Committee of the C.P.S.U.(B.).

68. The chiefs of political departments of military areas, fleets and armies, and the chiefs of the political departments of the railways must be Party members of five years' standing, and the chiefs of political departments of divisions and brigades Party members of three years' standing.

69. The political organs must maintain close contact with the local Party committees by means of the constant participation of the leaders of the political organs and the military commissars in the local Party committees, as well as by means of regular reports made to the Party Committees by the chiefs of the political organs and by the military commissars on the political work in the military units, and by the political departments on the railways.

#### XI. PARTY GROUPS IN NON-PARTY ORGANIZATIONS

70. At all congresses and conferences and in all elected bodies of Soviet, trade union, cooperative and other mass organizations where there are not less than three Party members, Party groups are formed whose task it is to strengthen the influence of the Party in every respect and to carry out the Party policy among the non-Party people, to strengthen Party and state discipline, to combat bureaucracy, and to keep a check on the way Party and Soviet directions are fulfilled.

The group elects a secretary for its current work.

<sup>4</sup> Cf. Nos. 104 and 159.

<sup>5</sup> Cf. No. 128.

71. The Party groups are subordinated to the appropriate Party organizations (Central Committee of the C.P.S.U.(B.), Central Committee of the Communist Party of the Union Republic, territorial committee, regional committee, area committee, city committee, or district committee).

In all questions the groups must strictly and unswervingly be guided by the decisions of the leading Party organs.

## XII. PENALTIES FOR VIOLATION OF PARTY DISCIPLINE

72. The maintenance of Party unity, relentless measures against the slightest attempt of double-dealing, factional struggle or splits, and the observance of Party and state discipline are primary duties of all Party members and of all Party organizations.

73. Decisions of Party and Soviet centres must be carried out promptly and accurately. Failure to carry out decisions of a higher organization, or any other offense regarded as culpable by the public opinion of the Party, entails: for organizations—censure and a general re-registration (dissolution of the organization); for individual Party members—censure in one form or another (admonition, reprimand, etc.), public censure, temporary removal from responsible Party and Soviet work, expulsion from the Party, and expulsion from the Party with notification of the offense to the administrative and judicial authorities.

74. In cases of violation of Party or state discipline, or the revival or commission of double-dealing and factionalism on the part of a member of the Central Committee of the C.P.S.U.(B.), the Central Committee has the right to expel him from the Central Committee

of the C.P.S.U.(B.), and, as an extreme measure, to expel him from the Party.

A condition precedent to the application of such an extreme measure to a member or alternate member of the Central Committee of the C.P.S.U.(B.) must be the convocation of a plenary meeting of the Central Committee of the C.P.S.U.(B.) to which all alternate members of the Central Committee are invited. If a two-thirds majority of such a general assembly of the most responsible leaders of the Party deem it necessary to expel the member of the Central Committee of the C.P.S.U.(B.) from the Central Committee or from the Party, this measure shall be put into effect immediately.

## XIII. PARTY FUNDS

75. The funds of the Party and of its organizations consist of membership dues, revenue from Party enterprises and other items of revenue.

76. The membership dues payable monthly by Party members and candidate members are as follows:

Monthly Wages	Dues
Up to 100 rubles	20 kopeks
from 101 to 150 rubles	60 kopeks
from 151 to 200 rubles	1.00 ruble
from 201 to 250 rubles	1.50 ruble
from 251 to 300 rubles	2.00 rubles
from 301 to 500 rubles	2% of earnings
over 500 rubles	3%

The membership dues of Party members and candidate members who have no fixed earnings are determined by the Central Committee of the C.P.S.U.(B.).

77. Persons on admission to the Party as candidate members pay an entrance fee amounting to two per cent of their monthly wage.

## APPENDIX D

# Basic Law for the Federal Republic of Germany

### PREAMBLE

*Conscious of its responsibility before God and before man,*

*inspired by the resolve to preserve its national and political unity and to serve world peace as an equal partner in a united Europe, the German people, in the Laender Baden, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North-Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuertemberg-Baden und Wuertemberg-Hohenzollern,*

*has, by virtue of its constituent power, enacted this Basic Law of the Federal Republic of Germany to give a new order to political life for a transitional period.*

*It has also acted on behalf of those Germans to whom participation was denied.*

*The entire German people is called upon to achieve, by free self-determination, the unity and freedom of Germany.*

### I. BASIC RIGHTS

ART. 1. (1) The dignity of man is inviolable. To respect and protect it is the duty of all state authority.

(2) The German people therefore acknowledges inviolable and inalienable human rights as the basis of every human community, of peace and of justice in the world.

(3) The following basic rights are binding on the legislature, on the executive and on the judiciary as directly valid law.

ART. 2. (1) Everyone has the right to the free development of his personality, insofar as he does not infringe upon the rights of others or offend against the constitutional order or the moral code.

(2) Everyone has the right to life and to physical inviolability. The freedom of the individual is inviolable. These rights may be interfered with only on the basis of a law.

ART. 3. (1) All persons are equal before the law.

(2) Men and women have equal rights.

(3) No one may be prejudiced or privileged because of his sex, his descent, his race, his language, his homeland and origin, his faith or his religious and political opinions.

ART. 4. (1) Freedom of faith and conscience and freedom of creed in religion and in philosophy of life (weltanschaulich) are inviolable.

(2) The practice of religion without interference is guaranteed.

(3) No one may be compelled against his conscience to perform military service as an armed combatant. Details are regulated by a federal law.

ART. 5. (1) Everyone has the right freely to express and to disseminate his opinion through speech, writing and pictures and, without hindrance, to instruct himself from generally accessible sources. Freedom of the press and freedom of radio and motion-pictures reporting are guaranteed. There is no censorship.

(2) These rights are limited by the provisions of the general laws, the legal regulations for the protection of juveniles and by the right to personal honor.

(3) Art and science, research and teaching are free. Freedom of teaching does not absolve from loyalty to the Constitution.

ART. 6. (1) Marriage and family are under the special protection of the state.

(2) The care and upbringing of children are the natural right of parents and their duty, incumbent upon them primarily. The state watches over their performance (of this duty).

(3) Children may be separated from the family against the will of those entitled to bring them up only on the basis of a law, if those so entitled fail to perform their duty, or if, on other grounds, the children are in danger of falling into neglect.

(4) Every mother has a claim to the protection and assistance of the community.

(5) For their physical and mental development and for their position in society, illegitimate children shall, by legislation, be given the same opportunities as legitimate children.

ART. 7. (1) The entire educational system is under the supervision of the state.

(2) Those entitled to bring up a child have the right to decide whether it shall receive religious instruction.

(3) Religious instruction shall form part of the curriculum in state and municipal schools, with the exception of non-denominational schools. Religious instruction shall, without prejudice to the state's right of supervision, be given according to the principles of



the religious denominations. No teacher may against his will be placed under an obligation to give religious instruction.

(4) The right to establish private schools is guaranteed. Private schools as a substitute for state or municipal schools require the approval of the state and are subject to Land legislation. The approval must be given if the private schools, in their educational aims and facilities, as well as in the professional training of their teaching personnel, are not inferior to the state or municipal schools and if a segregation of the pupils in accordance with the (financial) means of the parents is not fostered. The approval must be withheld if the economic and legal status of the teaching personnel is not adequately ensured.

(5) A private elementary school is to be permitted only if the educational authority recognizes a specific pedagogic interest or if, at the request of those entitled to bring up children, it is to be established as an inter-denominational school (*Gemeinschaftsschule*), as a denominational or an ideological school, and if a state or municipal elementary school of this type does not exist in the *Gemeinde*.

(6) Preparatory schools (*Vorschulen*) remain abolished.

ART. 8. (1) All Germans have the right, without prior notification or permission, to assemble peacefully and unarmed.

(2) In the case of open-air meetings this right may be restricted by legislation or on the basis of a law.

ART. 9. (1) All Germans have the right to form associations and societies.

(2) Associations, the objects or activities of which conflict with the criminal laws or which are directed against the constitutional order or the concept of international understanding, are prohibited.

(3) The right to form associations to safeguard and improve working and economic conditions is guaranteed to everyone and to all trades and professions. Agreements which restrict or seek to hinder this right are null and void; measures directed to this end are illegal.

ART. 10. Secrecy of the mail as well as secrecy of the postal services and of telecommunications is inviolable. Restrictions may be ordered only on the basis of a law.

ART. 11. (1) All Germans enjoy freedom of movement throughout the federal territory.

(2) This right may be restricted only by legislation and only for the cases in which an adequate basis of existence is absent, and, as a result, particular burdens would arise for the general public or in which it is necessary for the protection of juveniles from neglect, for combatting danger of epidemics or in order to prevent criminal acts.

ART. 12. (1) All Germans have the right freely to choose their trade or profession, place of work and place of vocational training. The exercise of an occupation or profession may be regulated by legislation.

(2) No one may be compelled to perform a particular kind of work except within the scope of a customary general compulsory public service equally applicable to all.

(3) Forced labor is admissible only in the event of deprivation of freedom ordered by a court.

ART. 13. (1) The home is inviolable.

(2) Searches may be ordered only by a judge or, in the event of danger in delay, by other authorities provided by law, and may be carried out only in the form prescribed therein.

(3) In other cases interferences with, and restrictions of, this inviolability may be undertaken only to avert a common danger or mortal danger to individuals and, on the basis of a law, also to prevent imminent danger to public safety and order, especially for the relief of the housing and space shortage (*Raumnot*), for combatting the danger of epidemics or for the protection of endangered juveniles.

ART. 14. (1) Property and the right of inheritance are safeguarded. (Their) scope and limitations are determined by legislation.

(2) Property commits to duties. Its use should at the same time serve the general welfare.

(3) Expropriation is admissible only for the welfare of the community at large. It may be effected only by legislation or on the basis of a law regulating the nature and extent of compensation. The compensation shall be determined after just consideration of the interests of the general public and the parties concerned. In case of dispute regarding the amount of compensation, there is recourse to the ordinary courts.

ART. 15. Land, natural resources and means of production may, for the purpose of socialization, be transferred to public ownership or other forms of publicly controlled economy by means of a law regulating the nature and extent of compensation. For the compensation, Article 14, paragraph (3), sentences 3 and 4, applies correspondingly.

ART. 16. (1) No one may be deprived of his German citizenship. A person may be deprived of citizenship only on the basis of a law and, against his will, only if he is not thereby rendered stateless.

(2) No German may be extradited to a foreign country. The politically persecuted enjoy the right of asylum.

ART. 17. Everyone has the right, individually or jointly with others, to address written requests or complaints to the competent authorities and to the popular representative bodies.

ART. 18. Whoever abuses freedom of expression of opinion, in particular freedom of the press (Article 5, paragraph (1)), freedom of teaching (Article 5, paragraph (3)), freedom of assembly (Article 8), freedom of association (Article 9), the secrecy of the mail, of the postal services and of telecommunications (Article 10), the (right of) property (Article 14), or the right of asylum (Article 16, paragraph (2)), in order to attack the libertarian democratic basic order, for-

feits these basic rights. The forfeiture and its extent shall be pronounced by the Federal Constitutional Court.

ART. 19. (1) Insofar as, under this Basic Law, a basic right may be restricted by legislation or on the basis of a law, this law must be of general application and not applicable solely to an individual case. Furthermore, the law must specify the basic right and indicate the Article (concerned).

(2) In no case may a basic right be infringed upon in its essential content.

(3) The basic rights also apply to domestic juridical persons insofar as the former, according to their nature, are applicable to the latter.

(4) Should any person's rights be infringed by public authority, he shall have recourse to the courts. Insofar as there is no other jurisdiction, the recourse shall be to the ordinary courts.

## II. THE FEDERATION AND THE LAENDER

ART. 20. (1) The Federal Republic of Germany is a democratic and social federal state.

(2) All state authority emanates from the people. It is exercised by the people by means of elections and plebiscites and through specific legislative, executive and judicial agencies.

(3) Legislation is subject to the Constitution; the executive power and the administration of justice are subject to the Law.

ART. 21. (1) The parties participate in the forming of the political will of the people. They can be freely formed. Their internal organization must conform to democratic principles. They must publicly account for the sources of their funds.

(2) Parties which, according to their aims and the conduct of their members, seek to impair or abolish the libertarian democratic basic order or to jeopardize the existence of the Federal Republic of Germany are unconstitutional. The Federal Constitutional Court decides on the question of unconstitutionality.

(3) Details are regulated by federal legislation.

ART. 22. The federal flag is black-red-gold.

ART. 23. For the time being, this Basic Law applies in the territory of the Laender Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower-Saxony, North-Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern. It is to be put into force in other parts of Germany on their accession.

ART. 24. (1) The Federation may, by legislation, transfer sovereign powers to international institutions.

(2) For the maintenance of peace, the Federation may join a system of mutual collective security; in doing so it will consent to those limitations of its sovereign powers which will bring about and secure a peaceful and lasting order in Europe and among the nations of the world.

(3) For the settlement of disputes between nations, the Federation will accede to conventions concerning

a general, comprehensive obligatory system of international arbitration.

ART. 25. The general rules of international law form part of federal law. They take precedence over the laws and directly create rights and duties for the inhabitants of the federal territory.

ART. 26. (1) Activities tending to disturb, and undertaken with the intention of disturbing, the peaceful relations between nations, especially of preparing the conduct of an aggressive war, are unconstitutional. They are to be subject to punishment.

(2) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details are regulated by a federal law.

ART. 27. All German commercial vessels constitute a (federally) unified merchant fleet.

ART. 28. (1) The constitutional order in the Laender must conform to the principles of the republican, democratic and social state based on the rule of law (Rechtsstaat) within the meaning of this Basic Law. In the Laender, Kreise und Gemeinden, the people must be represented by a body created by universal, direct, free, equal, and secret elections. In Gemeinden, the assembly of the Gemeinde may take the place of an elected body.

(2) The Gemeinden must be safeguarded in their right to regulate, under their own responsibility, all the affairs of the local community within the limits of the laws. The Gemeindeverbaende also shall have the right of self-government within the legally established scope of their functions and in accordance with the laws.

(3) The Federation guarantees that the constitutional order of the Laender conforms to the basic rights and the provisions of paragraphs (1) and (2).

ART. 29. (1) The federal territory is to be reorganized by a federal law with due regard to regional ties, historical and cultural connections, economic expediency and social structure. The reorganization should create Laender which, by their size and potentiality, are able to fulfill efficiently the functions incumbent upon them.

(2) In areas which, at the time of the reorganization of the Laender after 8 May 1945, became part, without plebiscite, of another Land, a specific change of the decision reached concerning this jurisdiction can be demanded by popular initiative within one year of the coming into force of this Basic Law. The popular initiative requires the consent of one-tenth of the population qualified to vote in Landtag elections. Should the popular initiative materialize, the Federal Government must, in the draft law regarding the reorganization, include a provision determining to which Land the area concerned shall belong.

(3) After adoption of the law, that part of the law which concerns an area which it is proposed to join to another Land must in each such area be submitted to a referendum. If, pursuant to paragraph (2), a

popular initiative has materialized, a referendum must be held in any case in the area concerned.

(4) Insofar as the law is rejected in at least one area, it must then be reintroduced in the Bundestag. Insofar as it is then re-enacted, it shall to that extent require acceptance by referendum in the entire Federal territory.

(5) In a referendum, the majority of the votes cast is decisive.

(6) The procedure is regulated by a federal law. The reorganization should be concluded before the expiration of three years after promulgation of the Basic Law and, should it be necessary in consequence of the accession of another part of Germany, within two years after such accession.

(7) The procedure regarding any other change in the existing territory of the Laender is regulated by a federal law which shall require the approval of the Bundesrat and of the majority of the members of the Bundestag.

ART. 30. The exercise of the powers of the state and the discharge of state functions is the concern of the Laender, insofar as this Basic Law does not otherwise prescribe or permit.

ART. 31. Federal law overrides Land Law.

ART. 32. (1) The maintenance of relations with foreign states shall be the concern of the Federation.

(2) Before the conclusion of a treaty affecting the special interests of a Land, this Land must be consulted in good time.

(3) Insofar as legislation falls within the competence of the Laender, these may, with the approval of the Federal Government, conclude treaties with foreign states.

ART. 33. (1) Every German has in every Land the same civic (staatsbuergerliche) rights and duties.

(2) Every German has equal access to any public office in accordance with his suitability, ability and professional achievements.

(3) Enjoyment of civil and civic rights (buergerliche und staatsbuergerliche Rechte) and access to public offices, as well as the rights acquired in the public service, are independent of religious denomination. No one may suffer prejudice on account of his adherence or non-adherence to a denomination or philosophy of life (Weltanschauung).

(4) The exercise of state authority (hoheitsrechtliche Befugnisse) as a permanent function shall, as a rule, be entrusted to members of the public service who are pledged to service and loyalty by public law.

(5) Law regarding the public service shall be regulated with due regard to the traditional principles concerning the status of professional civil servants (Berufsbeamtentum).

ART. 34. If any person, in exercising a public office entrusted to him, violates his official duty to a third party, responsibility (liability) rests in principle with the state or the public body which employs that person. In a case of willful intent or gross negligence, the (employing body's) right of recourse (against the civil

servant or employee) is reserved. With respect to the claim for compensation of damage and to the right of recourse, the jurisdiction of the ordinary courts must not be excluded.

ART. 35. All Federal and Land authorities render each other mutual legal and administrative assistance.

ART. 36. Civil servants (Beamte) from all Laender shall be employed by the highest Federal authorities in appropriate ratio. Persons employed with the other Federal authorities should, as a rule, be taken from the Land in which they are employed.

ART. 37. (1) If a Land fails to fulfill its obligations towards the Federation under the Basic Law or any other federal law, the Federal Government may, with Bundesrat approval, take the necessary measures to force the Land by way of federal compulsion (Bundeszwang) to fulfill its duties.

(2) For the implementation of federal compulsion, the Federal Government or its commissioner has the right to give instructions to all Laender and their administrative agencies.

### III. THE BUNDESTAG

ART. 38. (1) Representatives to the German Bundestag are elected by the people in universal, direct, free, equal, and secret elections. They are representatives of the whole people, not bound by orders and instructions, and subject only to their conscience.

(2) Any person who has reached the age of twenty-one years is entitled to vote, and any person who has reached the age of twenty-five years may stand for election.

(3) Details are determined by a federal law.

ART. 39. (1) The Bundestag is elected for a four-year term. Its legislative term ends four years after its first convening, or with its dissolution. The new election takes place in the last three months of the legislative term or, in case of a dissolution, after sixty days at the latest.

(2) The Bundestag convenes not later than thirty days after the election, but in no case before the end of the legislative term of the previous Bundestag.

(3) The Bundestag determines the closure and resumption of its meetings. The President of the Bundestag may convoke it at an earlier date. He is bound to do so if one-third of the members, the Federal President or the Federal Chancellor so demand.

ART. 40. (1) The Bundestag elects its President, his deputies and the secretaries. It draws up its Rules of Procedure.

(2) The President has charge of, and exercises police power in, the Bundestag building. No search or seizure may take place in the premises of the Bundestag without his permission.

ART. 41. (1) The scrutiny of elections is the responsibility of the Bundestag. It also decides whether a representative has lost his seat in the Bundestag.

(2) An appeal to the Federal Constitutional Court against the decision of the Bundestag is admissible.

(3) Details are regulated by a federal law.

ART. 42. (1) The deliberations of the Bundestag are public. Upon a motion of one-tenth of its members, or upon a motion of the Federal Government, the public may, by a two-thirds majority, be excluded. The motion is decided in a closed meeting.

(2) Decisions of the Bundestag require the majority of votes cast insofar as this Basic Law does not otherwise provide. For the elections to be held by the Bundestag, exceptions in the Rules of Procedure are admissible.

(3) True records of the public meetings of the Bundestag and of its committees do not entail any responsibility.

ART. 43. (1) The Bundestag and its committees may demand the presence of any member of the Federal Government.

(2) The members of the Bundesrat and of the Federal Government as well as persons commissioned by them have access to all meetings of the Bundestag and its committees. They must be heard at any time.

ART. 44. (1) The Bundestag has the right and, upon the motion of one-fourth of its members, the obligation to set up an investigating committee which shall take the necessary evidence in public proceedings. The public may be excluded.

(2) The provisions relating to criminal procedure shall essentially apply to the taking of the evidence. Secrecy of the mail, postal services and telecommunications remains unaffected.

(3) The courts and administrative authorities are bound to provide legal and administrative assistance.

(4) The decisions of the investigating committees are not subject to judicial review. The courts are free to appraise and judge the facts on which the investigation is based.

ART. 45. (1) The Bundestag appoints a Standing Committee which shall safeguard the rights of the Bundestag in relation to the Federal Government in the interval between two legislative terms. The Standing Committee has also the powers of an investigating committee.

(2) Any wider powers, in particular the right to legislate, to elect the Federal Chancellor, and to impeach the Federal President, are not vested in the Standing Committee.

ART. 46. (1) A representative may at no time be proceeded against in the courts or be subjected to disciplinary action or otherwise called to account outside the Bundestag on account of a vote given or an utterance made by him in the Bundestag or one of its committees. This shall not apply in the case of defamatory insults.

(2) A representative may be called to account or arrested for a punishable act only with the permission of the Bundestag, unless he be apprehended while committing the act or in the course of the following day.

(3) Furthermore, the permission of the Bundestag is required in respect of any other restriction of the personal freedom of a representative or for the initiation of proceedings pursuant to Article 18 against a representative.

(4) Any criminal proceedings and any proceedings pursuant to Article 18 against a representative, any detention and any other restriction of his personal freedom, shall be suspended upon the demand of the Bundestag.

ART. 47. Representatives are entitled to refuse to give evidence concerning persons who have confided facts to them in their capacity as representatives or to whom they have entrusted facts in this capacity, as well as concerning those facts themselves. Within the scope of this right to refuse to give evidence, the seizure of documents is inadmissible.

ART. 48. (1) Any person standing for election to the Bundestag is entitled to the leave necessary for the preparation of his election.

(2) No one may be prevented from accepting and exercising the office of representative. Notice of dismissal or dismissal (from employment) on these grounds are inadmissible.

(3) Representatives are entitled to a remuneration adequate to ensure their independence. They are entitled to free travel in all state-owned transport. Details are regulated by a federal law.

ART. 49. Articles 46, 47, and paragraphs (2) and (3) of Article 48 apply to the members of the Presidency and the Standing Committee, as well as to their chief deputies, also in the interval between two legislative terms.

#### IV. THE BUNDES RAT

ART. 50. By means of the Bundesrat, the Laender participate in the federal legislation and administration.

ART. 51. (1) The Bundesrat consists of members of the Laender Governments which appoint and recall them. Other members of their Governments may represent them.

(2) Each Land has at least three votes; Laender with more than two million inhabitants have four, Laender with more than six million inhabitants, five votes.

(3) Each Land may delegate as many members as it has votes. The votes of each Land may be given only as a block vote and only by members present or their substitutes.

ART. 52. (1) The Bundesrat elects its President for one year.

(2) The President convokes the Bundesrat. He must convoke it if the members for at least two Laender or the Federal Government so demand.

(3) The decisions of the Bundesrat are taken by at least the majority of its votes. It draws up its Rules of Procedure. It deliberates in public. The public may be excluded.

(4) Other members of the Laender Governments or persons commissioned by Laender Governments may belong to the committees of the Bundesrat.

ART. 53. The members of the Federal Government have the right and, on demand, the duty to participate in the deliberations of the Bundesrat and its committees. They must be heard at any time. The Bundesrat must be kept currently informed, by the Federal Government, of the conduct of federal affairs.

#### V. THE FEDERAL PRESIDENT

ART. 54. (1) The Federal President is elected, without debate, by the Federal Convention (Bundesversammlung). Every German is eligible who is entitled to vote for the Bundestag and has reached the age of forty years.

(2) The term of office of the Federal President is five years. Re-election for consecutive term is admissible only once.

(3) The Federal Convention consists of the members of the Bundestag and an equal number of members elected by the popular representative bodies of the Laender according to the principle of proportional representation.

(4) The Federal Convention meets not later than thirty days before the expiration of the term of office of the Federal President and, in the case of premature termination, not later than thirty days after this date. It is convoked by the President of the Bundestag.

(5) Upon expiration of the legislative term, the time period provided for in paragraph (4), sentence 1, begins with the first convening of the Bundestag.

(6) The person receiving the votes of the majority of the members of the Federal Convention is elected. If such majority is not obtained by any candidate in two ballots, the candidate receiving most votes in a further ballot is elected.

(7) Details are regulated by a federal law.

ART. 55. (1) The Federal President may not be a member of either the Government or a legislative body of the Federation or a Land.

(2) The Federal President may not hold any other salaried office, nor engage in a trade, nor practice a profession, nor belong to the management or the supervisory board (Aufsichtsrat) of a profit-making enterprise.

ART. 56. On assuming office, the Federal President takes the following oath in the presence of the assembled members of the Bundestag and the Bundesrat:

"I swear that I shall dedicate my efforts to the well-being of the German people, enhance its prosperity, protect it from harm, uphold and defend the Basic Law and the laws of the Federation, fulfill my duties conscientiously and do justice to all. So help me God."

The oath may also be taken without the religious asseveration.

ART. 57. In the event of the Federal President's being prevented from exercising the authority of his

office, or in the event of a premature vacancy in the office, this authority shall be exercised by the President of the Bundesrat.

ART. 58. Orders and decrees of the Federal President become valid only when countersigned by the Federal Chancellor or the competent Federal Minister. This does not apply in the case of the appointment and dismissal of the Federal Chancellor, of the dissolution of the Bundestag pursuant to Article 63, and of the request pursuant to Article 69, paragraph (3).

ART. 59. (1) The Federal President represents the Federation in matters concerning international law. He concludes treaties with foreign states on behalf of the Federation. He accredits and receives envoys.

(2) Treaties which regulate the political relations of the Federation or refer to matters of federal legislation require, in the form of a federal law, the approval or the participation of the respective bodies competent for federal legislation. For administrative agreements the provisions concerning the federal administration apply correspondingly.

ART. 60. (1) Unless otherwise provided by law, the Federal President appoints and dismisses the federal judges and the federal civil servants.

(2) In individual cases, he exercises the right of pardon on behalf of the Federation.

(3) He may delegate these powers to other authorities.

(4) Paragraphs (2) to (4) of Article 46 apply to the Federal President correspondingly.

ART. 61. (1) The Bundestag or the Bundesrat may impeach the Federal President before the Federal Constitutional Court for willful violation of the Basic Law or any other federal law. The motion for impeachment must be introduced by at least one-fourth of the members of the Bundestag or one-fourth of the votes of the Bundesrat. The decision to impeach requires a majority of two-thirds of the members of the Bundestag or of two-thirds of the votes of the Bundesrat. The prosecution is conducted by a person commissioned by the impeaching body.

(2) If the Federal Constitutional Court finds the Federal President guilty of a willful violation of the Basic Law or of any other federal law, it may declare him to have forfeited his office. Upon institution of impeachment proceedings, the Federal Constitutional Court may, by interim order, rule that the Federal President shall be debarred from exercising the authority of his office.

#### VI. THE FEDERAL GOVERNMENT

ART. 62. The Federal Government consists of the Federal Chancellor and the Federal Ministers.

ART. 63. (1) The Federal Chancellor is elected, without debate, by the Bundestag on the proposal of the Federal President.

(2) The person obtaining the majority of votes of the Bundestag members is elected. He is to be appointed by the Federal President.

(3) If the person proposed (for appointment) is not elected, the Bundestag may, within fourteen days of the ballot, elect a Federal Chancellor by more than one half of its members.

(4) If the Federal Chancellor is not elected within this time period, a new ballot shall take place without delay, in which the person receiving the greatest number of votes shall be elected. If the person elected obtains the votes of the majority of the Bundestag members, the Federal President must, within seven days of the election, appoint him. If the person elected does not obtain this majority, the Federal President must, within seven days, either appoint him or dissolve the Bundestag.

ART. 64. (1) The Federal Ministers are appointed and dismissed by the Federal President upon the proposal of the Federal Chancellor.

(2) The Federal Chancellor and the Federal Ministers, on assuming office, take before the Bundestag the oath provided in Article 56.

ART. 65. The Federal Chancellor determines, and assumes responsibility for, general policy. Within the limits of this general policy, each Federal Minister conducts the business of his department independently and on his own responsibility. The Federal Government decides on differences of opinion between the Federal Ministers. The Federal Chancellor conducts the business of the Federal Government in accordance with Rules of Procedure adopted by it and approved by the Federal President.

ART. 66. The Federal Chancellor and the Federal Ministers may not hold any other salaried office, nor engage in a trade nor practise a profession nor belong to the management or, without Bundestag approval, to the supervisory board (Aufsichtsrat) of a profit-making enterprise.

ART. 67. (1) The Bundestag may express its lack of confidence in the Federal Chancellor only by electing, by the majority of its members, a successor and by submitting a request to the Federal President for the dismissal of the Federal Chancellor. The Federal President must comply with the request and appoint the person elected.

(2) There must be an interval of forty-eight hours between the motion and the election.

ART. 68. (1) If a motion of the Federal Chancellor for a vote of confidence does not obtain the support of the majority of the members of the Bundestag, the Federal President may, upon the proposal of the Federal Chancellor, dissolve the Bundestag within twenty-one days. The right to dissolve lapses as soon as the Bundestag, with the majority of its members, elects another Federal Chancellor.

(2) There must be an interval of forty-eight hours between the introduction of the motion and the vote thereon.

ART. 69. (1) The Federal Chancellor appoints a Federal Minister as his deputy.

(2) The Federal Chancellor's or a Federal Minister's tenure of office ends in any case with the convening of a new Bundestag; a Federal Minister's tenure of office ends also with any other termination of the tenure of office of the Federal Chancellor.

(3) At the request of the Federal President, the Federal Chancellor or, at the request of the Federal Chancellor or of the Federal President, a Federal Minister, is bound to continue to transact the business of his office until the appointment of his successor.

## VII. THE LEGISLATION OF THE FEDERATION

ART. 70. (1) The Laender have the power to legislate insofar as this Basic Law does vest legislative powers in the Federation.

(2) The delimitation of competence between the Federation and the Laender is determined in accordance with the provisions of this Basic Law concerning exclusive and concurrent legislation.

ART. 71. In the field of exclusive legislation of the Federation, the Laender have the power to legislate only if, and insofar as, they are expressly so empowered by a federal law.

ART. 72. (1) In the field of concurrent legislation, the Laender have the power to legislate as long as, and insofar as, the Federation makes no use of its legislative power.

(2) The Federation has legislative power in this field insofar as a need for regulation by federal law exists because:

1. a matter cannot be effectively regulated by the legislation of individual Laender, or
2. the regulation of a matter by a Land law might prejudice the interests of other Laender or of the community at large, or
3. the preservation of legal or economic unity demands it, in particular the preservation of uniformity of living conditions beyond the territory of an individual Land.

ART. 73. The Federation has exclusive legislation on:

1. foreign affairs;
2. citizenship in the Federation;
3. freedom of movement, passports, immigration and emigration and extradition;
4. currency, money and coinage, weights and measures and regulation of time and calendar;
5. the unity of the territory as regards customs and commercial purposes, commercial and navigation agreements, the freedom of traffic in goods, and the exchanges of goods and payments with foreign countries, including customs and border control;
6. federal railroads, and air traffic;
7. postal services and telecommunications;
8. the legal status of persons in the service of the



Federation and of public law corporations directly controlled by the Federal Government;

9. industrial property rights (including patents and trade marks), author's copyrights and publisher's copyrights;
10. co-operation of the Federation and the Laender in the field of criminal police and in matters concerning the protection of the Constitution, the establishment of a Federal Office of Criminal Police, as well as international prevention and repression of crime;
11. statistics for federal purposes.

ART. 74. Concurrent legislation extends over the following fields:

1. Civil law, criminal law and execution of sentences, the constitution of courts and their procedure, the Bar, notaries and legal advice (Rechtsberatung);
2. census and registry matters;
3. law pertaining to associations and assemblies;
4. the right of sojourn and of settlement of aliens;
5. the protection of German works of art and of cultural (historic) significance against removal abroad;
6. matters relating to refugees and expellees;
7. public welfare;
8. citizenship in the Laender;
9. war damage and compensation (Wiedergutmachung);
10. assistance to war-disabled persons and to surviving dependents, the care of former prisoners of war and the care of war graves;
11. law relating to the economy (mining, industry, power supply, crafts, trades, commerce, banking and stock exchange, insurance to which civil and not public law applies);
12. labor law, including the relationship between labor and management within an enterprise, the protection of workers and the conducting of employment agencies and exchanges, as well as social insurance, including unemployment insurance;
13. the furtherance of scientific research;
14. law regarding expropriation insofar as it is concerned with the matters enumerated in Articles 73 and 74;
15. transfer of land and real estate, natural resources and means of production to public ownership or to other forms of publicly controlled economy;
16. prevention of the abuse of economic power;
17. furtherance of agricultural and forestry production, safeguarding of food supply, import and export of agricultural and forestry products, deep-sea and coastal fishing and the guarding and preservation of the coasts;
18. transactions in real estate, law concerning land and matters concerning agricultural leases, housing, settlements and homesteads;
19. measures against epidemic and infectious diseases affecting human beings and animals, the admis-

sion to medical and other healing professions and healing practices and the traffic in drugs, medicines, narcotics and poisons;

20. protection concerning traffic in food and stimulants as well as in necessities of life, in fodder, in agricultural and forestry seeds and seedlings, and protection of trees and plants against diseases and pests;
21. ocean and coastal shipping and aids to navigation, inland shipping, meteorological services, sea waterways and inland waterways used for general traffic;
22. road traffic, motorized transport and the construction and maintenance of highways used for long-distance traffic;
23. railroads other than federal railroads, except mountain railroads.

ART. 75. Within the conditions set forth in Article 72, the Federation has the right to issue general provisions concerning:

1. The legal status of persons employed in the public service of the Laender, Gemeinden and other public law corporations;
2. the general law to govern the press and motion pictures;
3. hunting, the preservation of nature and the care of the countryside;
4. land distribution, regional planning and water conservation;
5. matters relating to registration and identity cards.

ART. 76. (1) Bills are introduced in the Bundestag by the Federal Government, by members of the Bundestag or by the Bundesrat.

(2) Bills of the Federal Government are to be submitted first to the Bundesrat. The Bundesrat is entitled to give its opinion on these bills within three weeks.

(3) Bills of the Bundesrat are to be submitted to the Bundestag by the Federal Government, which must add a statement of its own views.

ART. 77. (1) Federal laws are passed by the Bundestag. After their adoption, they shall, without delay, be submitted to the Bundesrat by the President of the Bundestag.

(2) The Bundesrat may, within two weeks of the receipt of the adopted bill, demand that a committee composed of members of the Bundestag and Bundesrat be convoked to consider the bill jointly. The composition and the procedure of this committee is regulated by Rules of Procedure which shall be agreed by the Bundestag and shall require the approval of the Bundesrat. The members of the Bundesrat delegated to this committee are not bound by instructions. If the approval of the Bundesrat is required for a law, both the Bundestag and the Federal Government may demand the convocation of the committee. Should the committee propose amendments to the adopted bill, a new vote must be taken by the Bundestag.

(3) Insofar as the approval of the Bundesrat is not required for a law, the Bundesrat may, if proceedings



pursuant to paragraph (2) are completed, veto within one week a law passed by the Bundestag. The time period for a veto begins in the case of paragraph (2), last sentence, with the receipt of the bill as readopted by the Bundestag; in all other cases, with the conclusion of the proceedings before the committee provided for in paragraph (2).

(4) Should the veto be adopted by a majority of the Bundesrat votes, it may be rejected by the decision of a majority of the Bundestag members. If the Bundesrat has adopted the veto by at least a two-thirds majority of its votes, the rejection by the Bundestag shall require a majority of two-thirds, and at least the majority of the members of the Bundestag.

ART. 78. A law adopted by the Bundestag is deemed to have been passed if the Bundesrat approves it, does not introduce a motion pursuant to Article 77, paragraph (2), does not impose a veto within the time period provided by Article 77, paragraph (3), or withdraws its veto; or, if the veto is overridden by the Bundestag.

ART. 79. (1) The Basic Law may be amended only by a law expressly amending or amplifying the text of the Basic Law.

(2) Such a law requires the approval of two-thirds of the Bundestag members and two-thirds of the Bundesrat votes.

(3) An amendment to this Basic Law affecting the organization of the Federation into Laender, the basic participation of the Laender in legislation, or the basic principles laid down in Articles 1 and 20, is inadmissible.

ART. 80. (1) The Federal Government, a Federal Minister or the Land Governments may be empowered by a law to issue decrees having the force of law (Rechtsverordnungen). In such cases, the contents, purpose and scope of such powers must be specified in the law. The legal basis must be cited in the decree. If a law provides that such power may be further delegated, such delegation shall require a decree having the force of law (Rechtsverordnung).

(2) Bundesrat approval is required, unless otherwise provided by federal legislation, for decrees having the force of law (Rechtsverordnungen) issued by the Federal Government or a Federal Minister, concerning basic principles and charges for the use of facilities of the federal railroads, of the postal services and of telecommunications, concerning the construction and operation of railroads, as well as for decrees having the force of law (Rechtsverordnungen) issued on the basis of federal laws which require Bundesrat approval or which are executed by the Laender on behalf of the Federation or as matters of their own concern.

ART. 81. (1) Should the Bundestag not be dissolved as provided for in Article 68, the Federal President may, at the request of the Federal Government and with Bundesrat approval, declare a state of legislative emergency with respect to a bill, if the Bundestag rejects the bill although the Federal Government has

declared it to be urgent. The same applies if a bill has been rejected although the Federal Chancellor had combined with it the motion provided for in Article 68.

(2) If the Bundestag, after a state of legislative emergency has been declared, again rejects the bill or passes it in a version declared to be unacceptable to the Federal Government, the law shall be deemed passed provided that the Bundesrat approves it. The same applies if the bill has not been passed by the Bundestag within four weeks after its reintroduction.

(3) During the term of office of a Federal Chancellor, any other bill rejected by the Bundestag may be passed within a period of six months after the first declaration of a state of legislative emergency in accordance with paragraphs (1) and (2). After expiration of this period, a further declaration of a state of legislative emergency is inadmissible during the term of office of the same Federal Chancellor.

(4) The Basic Law may neither be amended nor wholly or partially repealed or suspended by a law enacted pursuant to paragraph (2).

ART. 82. (1) Laws enacted in accordance with the provisions of this Basic Law shall, after countersignature, be engrossed by the Federal President and promulgated in the Federal Gazette. Decrees having the force of law (Rechtsverordnungen) shall be signed by the issuing authority and, unless otherwise provided by law, promulgated in the Federal Gazette.

(2) Every law and every decree having the force of law (Rechtsverordnungen) should specify the date of its becoming effective. In the absence of such a provision, it shall become effective on the fourteenth day after the end of the day on which the Federal Gazette was issued.

#### VIII. THE EXECUTION OF FEDERAL LAWS AND THE FEDERAL ADMINISTRATION

ART. 83. The Laender execute the federal laws as matters of their own concern insofar as this Basic Law does not otherwise provide or permit.

ART. 84. (1) If the Laender execute the federal laws as matters of their own concern, they determine the establishment of authorities and administrative procedures insofar as federal laws approved by the Bundesrat do not otherwise provide.

(2) The Federal Government may, with Bundesrat approval, issue general administrative provisions.

(3) The Federal Government exercises supervision to ensure that the Laender execute the federal laws in accordance with the legislation in force. For this purpose the Federal Government may send commissioners to the highest Land authorities and, with their approval or, if this approval is refused, with Bundesrat approval, also to subordinate authorities.

(4) Should shortcomings in the execution of federal laws which the Federal Government has found to exist in the Laender not be corrected, the Bundesrat shall decide, upon request of the Federal Government or of the Land, whether the Land has infringed the

law. A decision of the Bundesrat may be challenged in the Federal Constitutional Court.

(5) For the execution of federal laws the Federal Government may, by federal legislation requiring Bundesrat approval, be granted the power to give individual instructions in special cases. They are, except if the Federal Government considers a case to be urgent, to be addressed to the highest Land authorities.

ART. 85. (1) Where the Laender execute the federal laws on behalf of the Federation, the establishment of the administrative agencies remains a concern of the Laender insofar as federal legislation approved by the Bundesrat does not otherwise provide.

(2) The Federal Government may issue, with Bundesrat approval, general administrative provisions. It may regulate the uniform training of civil servants (Beamte) and government employees (Angestellte). The heads of the administrative agencies at intermediate level shall be appointed with its agreement.

(3) The Land authorities are subject to the instructions of the competent highest federal authorities. Except if the Federal Government considers the matter urgent, the instructions are to be addressed to the highest Land authorities. Execution of the instructions is to be ensured by the highest Land authorities.

(4) Federal supervision extends to the legality and suitability of the manner of execution. The Federal Government may, for this purpose, require the submission of reports and documents and send commissioners to all authorities.

ART. 86. Where the Federation executes the laws by direct federal administration or through public law corporations or institutions directly under the Federation, the Federal Government issues, insofar as the Law does not make any special provisions, general administrative provisions. It determines, insofar as it is not otherwise provided by the law, the establishment of the administrative agencies.

ART. 87. (1) The foreign service, the federal finance administration, the federal railroads, the federal postal services and, in accordance with the provisions of Article 89, the administration of the federal waterways and shipping are conducted as integral parts of the federal administration with their own subordinate administrative offices. Federal border control authorities and central offices for police information and communications, for the compilation of data for the purpose of protecting the Constitution, and for the criminal police may be established by federal legislation.

(2) Social insurance institutions, the sphere of competence of which extends beyond the territory of a Land, are conducted as public law corporations directly under the Federation.

(3) In addition, independent central federal administrative agencies and new public law corporations and institutions directly under the Federation may be established by federal legislation for matters on which the Federation has the power to legislate. Should new

functions arise for the Federation in matters in respect to which it has legislative competence, federal administrative agencies at intermediate and lower levels may, in case of urgent need, be established with the approval of the Bundesrat and of the majority of the Bundestag.

ART. 88. The Federation establishes a bank of issue as a federal bank.

ART. 89. (1) The Federation is the owner of the former Reich waterways.

(2) The Federation administers the Federal waterways through its own agencies. It exercises those state functions relating to inland shipping which extend beyond the territory of a Land and the functions relating to sea-going shipping which are conferred on it by legislation. Upon request, the Federation may delegate the administration of federal waterways, insofar as they lie within the territory of a Land, to this Land, in administration by commission (Auftragsverwaltung). Should a waterway touch the territories of several Laender, the Federation may delegate the administration of it to the Land which is proposed in a request submitted by the Laender concerned.

(3) In the administration, development and construction of waterways, the requirements of soil cultivation and of water conservation shall be safeguarded in agreement with the Laender.

ART. 90. (1) The Federation is the owner of the former Reich Autobahnen (auto-highways) and Reich highways.

(2) The Laender, or such self-governing corporations as are competent under Land public law, administer on behalf of the Federation the federal Autobahnen (auto-highways) and other federal highways used for long-distance traffic.

(3) At the request of a Land, the Federation may take under direct federal administration federal Autobahnen (auto-highways) and other federal highways used for long-distance traffic, insofar as they lie within the territory of the Land.

ART. 91. (1) In order to avert any imminent danger to the existence or the libertarian democratic basic order of the Federation or of a Land, a Land may appeal for the services of the police forces of other Laender.

(2) If the Land in which this danger is imminent is not itself prepared or in a position to combat the danger, the Federal Government may place the police in that Land and the police forces of other Laender under its own instructions. This order (Anordnung) has to be rescinded after the elimination of the danger, or else at any time on the demand of the Bundesrat.

## IX. THE ADMINISTRATION OF JUSTICE

ART. 92. Judicial authority is vested in the judges; it is exercised by the Federal Constitutional Court, by the Supreme Federal Court, by the federal courts provided for in this Basic Law and by the courts of the Laender.

ART. 93. (1) The Federal Constitutional Court decides:

1. on the interpretation of this Basic Law in the event of disputes concerning the extent of the rights and duties of any of the highest federal agencies or of other parties granted independent rights by this Basic Law or by Rules of Procedure of the highest federal agencies;
2. in case of differences of opinion or doubts as to the formal and material compatibility of federal law or Land law with this Basic Law or on the compatibility of Land law with other federal law, at the request of the Federal Government, of a Land Government or of one-third of the Bundestag members;
3. in case of differences of opinion on the rights and duties of the Federation and the Laender, particularly in the execution of federal law by the Laender, and in the exercise of federal supervision;
4. on other public law disputes between the Federation and the Laender, between different Laender or within a Land, insofar as recourse to another court is not provided for;
5. in all other cases provided for in this Basic Law.

(2) Furthermore, the Federal Constitutional Court shall act in such cases as are otherwise assigned to it by federal legislation.

ART. 94. (1) The Federal Constitutional Court consists of federal judges and other members. Half of the members of the Federal Constitutional Court are elected by the Bundestag and half by the Bundesrat. They may not belong to the Bundestag, the Bundesrat, the Federal Government or corresponding agencies of a Land.

(2) A federal law determines the constitution and procedure of the Federal Constitutional Court and specifies in what cases its decisions shall have the force of law.

ART. 95. (1) A Supreme Federal Court is established for the maintenance of the unity of federal law.

(2) The Supreme Federal Court decides cases in which the decision is of fundamental importance for the uniformity of the administration of justice by the high federal courts.

(3) The appointment of the judges of the Supreme Federal Court is decided jointly by the Federal Minister of Justice and a committee for the selection of judges consisting of the Land ministers of Justice and an equal number of members elected by the Bundesrat.

(4) In other respects, the constitution of the Supreme Federal Court and its procedure are regulated by federal legislation.

ART. 96. (1) High federal courts shall be established in the spheres of ordinary, administrative, financial, labor and social jurisdiction.

(2) Article 95, paragraph (3), applies to the judges of the high federal courts with the proviso that the Federal Minister of Justice and the Land Ministers

of Justice shall be substituted by the Ministers competent in the particular matter. Their service status must be regulated by a special federal law.

(3) The Federation may establish federal disciplinary courts for disciplinary proceedings against federal civil servants and federal judges.

ART. 97. (1) Judges are independent and subject only to the law.

(2) Judges definitively appointed on a full-time basis to established court offices may, against their will, be dismissed before the expiration of their term of office, or permanently or temporarily suspended from office or transferred to another position or placed on the retired list, only by the decision of a court and only on grounds and according to the procedures provided for by law. Legislation may set age limits for the retirement of judges who have been appointed for life. In the case of changes in the structure of the courts or their area of jurisdiction, judges may be transferred to another court or suspended from office with the retention, however, of their full salary.

ART. 98. (1) The legal status of the federal judges is to be regulated by a special federal law.

(2) If a federal judge, in his official capacity or unofficially, infringes on the principles of the Basic Law or the constitutional order of a Land, the Federal Constitutional Court may, upon request of the Bundestag, rule, with a two-thirds majority, that the judge be transferred to another office or placed on the retired list. In a case of willful infringement, dismissal may also be ordered.

(3) The legal status of the judges in the Laender is to be regulated by special Land legislation. The Federation may issue general provisions.

(4) The Laender may determine that the Land Minister of Justice shall, together with a committee for the selection of judges, decide on the appointment of judges in the Laender.

(5) The Laender may, in conformity with paragraph (2), provide a regulation for Land judges. Land constitutional law in force remains unaffected. The decision concerning a case of impeachment of a judge rests with the Federal Constitutional Court.

ART. 99. The decision on constitutional disputes within a Land may be assigned by Land legislation to the Federal Constitutional Court, and the decision of last instance, on such matters as involve the application of Land law, to the high federal courts.

ART. 100. (1) If a court considers unconstitutional a law the validity of which is pertinent to its decision, proceedings must be stayed and, if a violation of a Land Constitution is at issue, the decision of the Land court competent for constitutional disputes shall be obtained and, if a violation of this Basic Law is at issue, the decision of the Federal Constitutional Court shall be obtained. This also applies if the violation of this Basic Law by Land law or the incompatibility of a Land law with a federal law is at issue.

(2) If, in litigation, it is doubtful whether a rule of international law forms part of federal law and

whether it directly creates rights and duties for the individual (Article 25), the court has to obtain the decision of the Federal Constitutional Court.

(3) If the constitutional court of a Land, in interpreting the Basic Law, intends to deviate from a decision of the Federal Constitutional Court or of the constitutional court of another Land, the (said) constitutional court must obtain the decision of the Federal Constitutional Court. If, in interpreting other federal law, it intends to deviate from the decision of the Supreme Federal Court or a high federal court, it must obtain the decision of the Supreme Federal Court.

ART. 101. (1) Extraordinary courts are inadmissible. No one may be removed from the jurisdiction of his lawful judge.

(2) Courts dealing with matters in special fields may be established only by law.

ART. 102. The death sentence is abolished.

ART. 103. (1) Everyone is entitled to a proper hearing before the courts.

(2) An act may be punished only if the Law defined it as punishable before it was committed.

(3) On the basis of the general criminal laws, no one may be punished for the same act more than once.

ART. 104. (1) The freedom of the individual may be restricted only on the basis of a formal law and only with due regard to the forms prescribed therein. Detained persons may be subjected neither to mental nor physical ill-treatment.

(2) Only a judge is (entitled) to decide on the admissibility and extension of a deprivation of liberty. In the case of every such deprivation which is not based on the order of a judge, a judicial decision must be obtained without delay. The police may, on its own authority, hold no one in its own custody beyond the end of the day following the arrest. Further details are to be regulated by law.

(3) Any person temporarily detained on suspicion of having committed a punishable act must, at the latest on the day following the detention, be brought before a judge who shall inform him of the reasons for the detention, interrogate him and give him an opportunity to raise objections. The judge must, without delay, either issue a warrant of arrest, setting out the reasons thereof, or order the release.

(4) A relative of the person detained or a person enjoying his confidence must be notified without delay of any judicial decision ordering or extending a deprivation of liberty.

## X. FINANCE

ART. 105. (1) The Federation has exclusive legislation on customs and fiscal monopolies.

(2) The Federation has concurrent legislation on:

1. excise taxes and taxes on transactions, with the exception of taxes with localized application, in particular the taxes on real estate acquisition, incremental value and fire protection;

2. the taxes on income, property, inheritance and donations;

3. taxes on real estate and on business (Realsteuern), with the exception of the fixing of tax rates;

if it claims the taxes in their entirety or in part to cover federal expenditures, or if the conditions set forth in Article 72, paragraph (2), exist.

(3) Federal legislation on taxes the yield of which accrues in their entirety or in part to the Laender or the Gemeinden (Gemeindeverbaende) require Bundesrat approval.

ART. 106. (1) Customs, the yield of monopolies, the excise taxes with the exception of the beer tax, the transportation tax, the turnover tax and levies on property serving non-recurrent purposes accrue to the Federation.

(2) The beer tax, the taxes on transactions with the exception of the transportation tax and turnover tax, the income and corporation taxes, the property tax, the inheritance tax, the taxes on real estate and on businesses (Realsteuern) and the taxes with localized application accrue to the Laender and, in accordance with provisions of Land legislation, to the Gemeinden (Gemeindeverbaende).

(3) The Federation may, by means of a federal law requiring Bundesrat approval, claim a part of the income and corporation taxes to cover its expenditures not covered by other revenues, in particular to cover grants which are to be made to Laender to meet expenditures in the fields of education, public health and welfare.

(4) In order to ensure the working efficiency also of the Laender with low tax revenues and to equalize the differing burdens of expenditure of the Laender, the Federation may make grants and take the funds necessary for this purpose from specific taxes accruing to the Laender. A federal law, requiring Bundesrat approval, shall determine which taxes shall be utilized for this purpose and in what amounts and on what basis the grants shall be distributed among the Laender entitled to equalization; the grants must be transferred directly to the Laender.

ART. 107. The final distribution, as between the Federation and the Laender, of the taxes subject to concurrent legislation shall be effected not later than 31 December 1952 and by means of a federal law requiring Bundesrat approval. This does not apply to the taxes on real estate and on businesses (Realsteuern), and the taxes with localized application. Thereby, each party should be assigned a legal claim to certain taxes or shares in taxes commensurate to their tasks.

ART. 108. (1) Customs, fiscal monopolies, the excise taxes subject to concurrent legislation, the transportation tax, the turnover tax and the non-recurrent levies on property are administered by federal finance authorities. The organization of these authorities and the procedure to be applied by them are regulated by federal legislation. The heads of the authorities at intermediate level shall be appointed in agreement with the Land Governments. The Federation may delegate the

administration of the non-recurrent levies on property to the Land finance authorities as administration by commission (Auftragsverwaltung).

(2) Where the Federation claims part of the income and corporation taxes it shall thus far administer them; it may, however, delegate the administration to the Land finance authorities as administration by commission (Auftragsverwaltung).

(3) The remaining taxes are administered by Land finance authorities. The Federation may, by federal legislation requiring Bundesrat approval, regulate the organization of these authorities, the procedure to be applied by them and the uniform training of the civil servants. The heads of the authorities at intermediate level must be appointed in agreement with the Federal Government. The administration of the taxes accruing to the Gemeinden (Gemeinverbaende) may be delegated by the Laender in entirety or in part to the Gemeinden (Gemeindeverbaende).

(4) Insofar as taxes accrue to the Federation, the Land finance authorities shall act on behalf of the Federation. The Laender are liable with their revenues for an orderly administration of these taxes; the Federal Minister of Finance may supervise the orderly administration through authorized federal agents who have the right to give instructions to the authorities at intermediate and lower levels.

(5) The jurisdiction of Finance Courts shall be uniformly regulated by federal legislation.

(6) The general administrative provisions shall be issued by the Federal Government and, insofar as the administration is incumbent upon the Land finance authorities, will require Bundesrat approval.

ART. 109. The Federation and the Laender are autonomous and mutually independent with regard to their respective budgets.

ART. 110. (1) All revenues and expenditures of the Federation must be estimated for each fiscal year and included in the budget.

(2) The budget shall be established by law before the beginning of the fiscal year. Revenue and expenditure must be balanced. Expenditures shall, as a rule, be approved for one year; in special cases, they may be approved for a longer period. Otherwise, the federal budget law may contain no provisions which extend beyond the fiscal year or which do not concern the revenues and expenditures of the Federation or its administration.

(3) The assets and liabilities shall be set forth in an appendix to the budget.

(4) In the case of federal enterprises commercially operated, only the final result, and not the detailed revenues and expenditures, need be included in the budget.

ART. 111. (1) If, by the end of a fiscal year, the budget for the following year has not been established by law, the Federal Government shall, until such a law comes into force, be empowered to effect such payments as are necessary:

- a) to maintain existing institutions established by law and to carry out measures adopted by law;

- b) to meet legal obligations of the Federation;
- c) to continue building projects, procurements and other services, or to grant further subsidies for these purposes, provided that funds have already been approved in the budget of a previous year.

(2) Insofar as revenues, provided by special legislation and derived from taxes, dues and other sources, or working capital reserves do not cover the expenditures mentioned under paragraph (1), the Federal Government may, by way of credits, procure the funds, up to one-fourth of the total amount of the previous budget, which are necessary to conduct current operations.

ART. 112. Expenditures exceeding the budget and any extraordinary expenditures require the approval of the Federal Minister of Finance. It may only be given in case of unforeseen and compelling necessity.

ART. 113. Decisions of the Bundestag and Bundesrat which increase the budget expenditure proposed by the Federal Government, or include or imply new expenditures for the future, require the approval of the Federal Government.

ART. 114. (1) The Federal Minister of Finance must submit to the Bundestag and the Bundesrat an annual account of all revenues and expenditures as well as of assets and liabilities.

(2) This account shall be audited by an Audit Office (Rechnungshof) the members of which shall enjoy judicial independence. The general account and a survey of the assets and liabilities have to be submitted to the Bundestag and the Bundesrat in the course of the following fiscal year, together with the comments of the Audit Office, in order to secure a discharge (Entlastung) for the Federal Government. The auditing of accounts shall be regulated by a federal law.

ART. 115. Funds may be obtained by way of credits only in the case of extraordinary requirements and as a rule only for expenditure for productive purposes and only on the basis of a federal law. The granting of credits and providing of securities as a charge on the Federation, the effect of which extends beyond the fiscal year, may be undertaken only on the basis of a federal law. The amount of the credits or the extent of the obligation for which the Federation assumes liability must be determined in the law.

## XI. TRANSITIONAL AND CONCLUDING PROVISIONS

ART. 116. (1) Unless otherwise provided by law, a German within the meaning of this Basic Law is a person who possesses German citizenship or who has been accepted in the territory of the German Reich, as it existed on 31 December 1937, as a refugee or expellee of German ethnic stock (Volkszugehoerigkeit) or as the spouse or descendant of such person.

(2) Former German citizens, who, between 30 January 1933 and 8 May 1945, were deprived of their citizenship for political, racial or religious reasons, and their descendants, shall be regranted German citizenship on application. They are considered as not having

been deprived of their German citizenship if they have taken up residence in Germany after 8 May 1945 and have not expressed a desire to the contrary.

ART. 117. (1) Legislation which conflicts with Article 3, paragraph (2), remains in force pending harmonization with this provision of the Basic Law, but not beyond 31 March 1953.

(2) Laws restricting the right of freedom of movement, by reason of the present housing and space shortage (Raumnot), remain in force until repealed by federal legislation.

ART. 118. The reorganization of the territory comprising the Laender Baden, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern may be effected, by agreement between the Laender concerned, in a manner deviating from the provisions of Article 29. Failing agreement, the reorganization shall be regulated by federal legislation which must provide for a referendum.

ART. 119. In matters relating to refugees and expellees, in particular as regards their distribution among the Laender, the Federal Government may, with Bundesrat approval, issue decrees having the force of law (Verordnungen mit Gesetzeskraft), pending a settlement of the matter by federal legislation. In special cases, the Federal Government may be empowered to issue individual instructions. Except in case of danger in delay the instructions are to be addressed to the highest Land authorities.

ART. 120. (1) In accordance with more detailed provisions of a federal law, the Federation bears the expenses for occupation costs and the other internal and external burdens caused by war, and for the subsidies to (alleviate) the burdens of social insurance, including unemployment insurance, and public assistance for the unemployed.

(2) The revenues are transferred to the Federation at the same time as the Federation assumes responsibility for the expenditures.

ART. 121. Within the meaning of this Basic Law, a majority of the members of the Bundestag and of the Federal Convention (Bundesversammlung) is the majority of the statutory number of their members.

ART. 122. (1) As from the convening of the Bundestag, laws shall be passed exclusively by the legislative authorities recognized in this Basic Law.

(2) Where the competence of legislative bodies and of bodies participating in legislation in an advisory capacity ends in accordance with paragraph (1), such bodies shall be dissolved as of the same date.

ART. 123. (1) Law in existence prior to the (first) convening of the Bundestag remains in effect, insofar as it does not conflict with the Basic Law.

(2) The state treaties concluded by the German Reich concerning matters for which, under this Basic Law, Land legislation is competent, remain in force if they are valid and continue to be valid in accordance with general principles of law, subject to all rights and objections of the interested parties, pending the con-

clusion of new state treaties by the authorities competent under this Basic Law or until they are otherwise terminated pursuant to the provisions that they contain.

ART. 124. Legislation concerning matters within the exclusive legislative competence of the Federation shall become federal law within the area of its application.

ART. 125. Legislation concerning matters of concurrent federal legislation shall become federal law within the area of its application

1. insofar as it uniformly applies within one or more zones of occupation,
2. insofar as it concerns legislation by which former Reich law has been amended since 8 May 1945.

ART. 126. Differences of opinion concerning the continuing validity of legislation as federal law are settled by the Federal Constitutional Court.

ART. 127. Within one year of the promulgation of this Basic Law, the Federal Government may, with the approval of the Governments of the Laender concerned, extend, to the Laender Baden, Greater Berlin, Rhineland-Palatinate and Wuerttemberg-Hohenzollern, legislation of the Bizonal Economic Administration insofar as it continues to be in force as federal legislation under Articles 124 or 125.

ART. 128. Insofar as legislation continuing in force provides for powers to give instructions within the meaning of Article 84, paragraph (5), these powers remain in effect until otherwise provided by law.

ART. 129. (1) Insofar as legal provisions continuing in force as federal law contain an authorization to issue decrees having the force of law (Rechtsverordnungen) or general administrative provisions, and to perform administrative acts, this authorization passes to the (administrative) agencies henceforth competent in such matters. In cases of doubt, the Federal Government decides in agreement with the Bundesrat; the decision must be published.

(2) Insofar as legal provisions continuing in force as Land law contain such an authorization, it shall be exercised by the (administrative) agencies competent according to Land law.

(3) Insofar as legal provisions within the meaning of paragraphs (1) and (2) authorize their amendment or amplification or the issue of legal provisions in lieu of laws, these authorizations have expired.

(4) The provisions of paragraphs (1) and (2) apply correspondingly whenever legal provisions refer to regulations no longer valid or to institutions no longer in existence.

ART. 130. (1) Administrative agencies and other institutions which serve the public administration or the administration of justice and are not based on Land law or state treaties between Laender, as well as the amalgamated management of the South West German railroads and the Administrative Council for the postal services and telecommunications of the French Zone of Occupation, are placed under the Federal Government.



The latter, with Bundesrat approval, regulates their transfer, dissolution or liquidation.

(2) The highest disciplinary authority over the personnel of these administrations and establishments is the competent Federal Minister.

(3) Public Law corporations and institutions not directly under a Land, and not based on state treaties between Laender, are under the supervision of the competent highest federal authority.

ART. 131. The legal status of persons, including refugees and expellees, who on 8 May 1945, were employed in the public service and who have left service for reasons other than those based on legal provisions concerning civil service or agreed employment regulations (Tarif), and who till now have not been employed or are not employed in a position corresponding to their former position, is to be regulated by federal legislation. The same applies to persons, including refugees and expellees, who, on 8 May 1945, were entitled to a pension or other assistance and who no longer receive any assistance or any adequate assistance for reasons other than those based on legal provisions concerning civil service or agreed employment regulations (Tarif). Pending the coming into force of the federal law, no legal claims may be made, unless otherwise provided by Land legislation.

ART. 132. (1) Civil servants (Beamte) and judges who, at the coming into force of this Basic Law, hold appointments for life may, within six months after the first convening of the Bundestag, be placed on the retired list or waiting list or be transferred to another office with lower remuneration, if they are personally or professionally unsuitable for their office. This provision applies correspondingly also to government employees (Angestellte) whose service cannot be terminated by notice of dismissal. In the case of government employees (Angestellte) whose service conditions provide for termination by notice of dismissal, the period of notice exceeding that required by agreed rules of employment (tarifmaessige Regelung) may be cancelled within the same period (of six months).

(2) These provisions do not apply to members of the public service who are not affected by the provisions regarding the "liberation from National Socialism, and militarism" or who are recognized victims of National Socialism, insofar as no serious grounds are to be found in their character.

(3) Persons affected (by the above) have recourse to the courts in accordance with Article 19, paragraph (4).

(4) Details are determined by a decree (Verordnung) of the Federal Government, requiring Bundesrat approval.

ART. 133. The Federation succeeds to the rights and obligations of the Bizonal Economic Administration.

ART. 134. (1) Reich property becomes in principle federal property.

(2) Insofar as such property was originally intended mainly for administrative functions which, under this Basic Law, are not administrative functions of the

Federation, it is, without compensation, to be transferred to the authorities hereafter competent to carry out such functions, and to the Laender insofar as, according to its present, not merely provisional, use, it serves for administrative functions which, under this Basic Law, are hereafter to be fulfilled by the Laender. The Federation may also transfer other property to the Laender.

(3) Property which was placed at the disposal of the Reich by the Laender and Gemeinden (Gemeindeverbaende) without compensation shall again become the property of the Laender and Gemeinden (Gemeindeverbaende), insofar as it is not required by the Federation for its own administrative functions.

(4) Details are regulated by a federal law requiring Bundesrat approval.

ART. 135. (1) If, between 8 May 1945 and the coming into force of this Basic Law, a territory has passed from one Land to another, the property in this territory of the Land to which this territory had belonged devolves on the Land to which this territory now belongs.

(2) Property of no longer existing Laender or other public law corporations and institutions, insofar as it was originally intended mainly for administrative functions, or in accordance with its present not merely provisional use serves mainly for administrative functions, devolves on the Land or public law corporation or institution henceforth performing these functions.

(3) Insofar as it is not already included among property within the meaning of paragraph (1), real estate of no longer existing Laender, including appurtenances, devolves on the Land in the territory of which it is located.

(4) Where an overriding interest of the Federation or the particular interest of a territory so requires, an arrangement deviating from paragraph (1) to (3) may be adopted by federal legislation.

(5) Moreover, the legal succession and the settlement (of property), insofar as it has not been effected by 1 January 1952 by agreement between the Laender or public law corporations or institutions concerned, shall be regulated by federal legislation requiring Bundesrat approval.

(6) Participation of the former Land Prussia in civil law enterprises devolves on the Federation. Details shall be regulated by a federal law which may make deviating provisions.

(7) Insofar as, at the time of the coming into force of the Basic Law, property devolving on a Land or a public law corporation or institution under paragraphs (1) and (3) has been disposed of by the party thereby authorized through a Land law, on the basis of a Land law or in another way, the transfer of property is deemed to have taken place before the act of disposal.

ART. 136. (1) The Bundesrat convenes for the first time on the day of the first convening of the Bundestag.

(2) Pending the election of the first Federal President, his functions shall be exercised by the Bundesrat



President. He does not have the right to dissolve the Bundestag.

ART. 137. (1) The right of civil servants (Beamte), of employees (Angestellte) of the public services and of judges of the Federation, of the Laender and of the Gemeinden to stand for election may be restricted by legislation.

(2) The Electoral Law to be adopted by the Parliamentary Council applies for the election of the first Bundestag, of the first Federal Convention and of the first Federal President of the Federal Republic.

(3) Pending its establishment, the function of the Federal Constitutional Court, pursuant to Article 41, paragraph (2), shall be exercised by the German High Court for the Combined Area, which shall decide in accordance with its Rules of Procedure.

ART. 138. Changes in the regulations of notaries, as they now exist in the Laender Baden, Bavaria, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern, require the approval of the Governments of these Laender.

ART. 139. The legal provisions enacted for the "liberation of the German people from National Socialism, and militarism" shall not be affected by the provisions of this Basic Law.

ART. 140. The provisions of Articles 136, 137, 138, 139, and 141 of the German Constitution of 11 August 1919 are an integral part of this Basic Law.

ART. 141. Article 7, paragraph (3), first sentence, finds no application in a Land where another regulation by Land law existed on 1 January 1949.

ART. 142. Notwithstanding the provision of Article 31, provisions of Land Constitutions remain in force also insofar as they guarantee basic rights in conformity with Articles 1 to 18 of this Basic Law.

ART. 143. (1) Whoever, by force or by threat of force, changes the constitutional order of the Federation or of a Land, deprives the Federal President of the powers accorded to him by this Basic Law, or, by force or by dangerous threats, compels him to exercise his powers or prevents him from exercising them altogether or in a specific manner, or separates from the Federation or from a Land a territory belonging to

them, shall be sentenced to penal servitude for life or for not less than ten years.

(2) Whoever publicly incites to an action, within the meaning of paragraph (1), or plots it in connivance with another person, or otherwise prepares it, shall be sentenced to penal servitude up to ten years.

(3) In less serious cases, a sentence of not less than two years' penal servitude in the cases specified in paragraph (1), and of not less than one year's imprisonment in the cases specified in paragraph (2), may be imposed.

(4) Whoever of his own free will abandons an activity (of this sort) or, in case of participation of several persons, prevents the execution of a plot (of this sort), may not be punished in accordance with the provisions of paragraphs (1) to (3).

(5) Where such an action is directed exclusively against the constitutional order of a Land, the highest Land court competent for criminal cases shall, in the absence of any other provision in Land law, be competent to decide. In other cases, the regional superior court (Oberlandesgericht), in the district of which the first Federal Government has its seat, is competent.

(6) The aforementioned provisions apply pending other regulations by federal law.

ART. 144. (1) This Basic Law requires adoption by the popular representative bodies in two-thirds of the German Laender in which it shall for the time being apply.

(2) Insofar as restrictions are imposed on the application of the Basic Law in any of the Laender enumerated in Article 23, paragraph (1), or in a part of any of these Laender, that Land or that part of a Land has the right, in accordance with Article 38, to send delegates to the Bundestag and, in accordance with Article 50, to the Bundesrat.

ART. 145. (1) The Parliamentary Council, with the participation of the representatives of Greater Berlin, confirms in a public meeting the adoption of this Basic Law, engrosses and promulgates it.

(2) This Basic Law becomes effective at the end of the day of its promulgation.

(3) It is to be published in the Federal Gazette.

ART. 146. This Basic Law becomes invalid on the day on which a Constitution adopted by the German people by means of a free decision becomes effective.

## APPENDIX E

# The Constitution of the German Democratic Republic

### PREAMBLE

*The German People, imbued with the desire to safeguard human liberty and rights, to reshape collective and economic life in accordance with the principles of social justice, to serve social progress, and to promote a secure peace and amity with all peoples, have adopted this Constitution.*

### A. FUNDAMENTALS OF STATE AUTHORITY

ART. 1. Germany is an indivisible democratic republic, the foundations of which are the German Laender.

The (German Democratic) Republic decides on all issues which are essential to the existence and development of the German people as a whole, all other issues being decided upon by independent action of the Laender (states).

As a rule, decisions of the Republic are carried out by the Laender.

There is only one German nationality.

ART. 2. The colors of the German Democratic Republic are black, red and gold.

The capital of the Republic is Berlin.

ART. 3. All state authority emanates from the people.

Every citizen has the right and the duty to take part in the formation of the political life of his Gemeinde (community), Kreis (county), Land (state) and of the German Democratic Republic.

This right of co-determination takes the form of:

- voting in popular initiatives and referendums;
- exercising the right to vote and standing for election;
- entering upon public offices in general administration and in the administration of justice.

Every citizen has the right to submit petitions to the popular representative body.

State authority must serve the welfare of the people, liberty, peace and the progress of democracy.

Those active in public service are servants of the community as a whole and not of any one party. Their activity is supervised by the popular representative body.

ART. 4. All measures taken by state authority must be compatible with the principles which the Constitu-

tion has declared to be contained in state authority. Pursuant to Article 66 of this Constitution, the popular representative body is to decide on the constitutionality of such measures. Everyone has the right and the duty to resist measures contradicting enactments of the popular representative body.

Every citizen is in duty bound to act in accordance with the Constitution and to defend it against its enemies.

ART. 5. The generally recognized rules of international law are binding upon state authority and every citizen.

It is the duty of state authority to maintain and cultivate amicable relations with all peoples.

No citizen may participate in belligerent actions designed to oppress any people.

### B. CONTENTS AND LIMITS OF STATE AUTHORITY

#### I. RIGHTS OF THE CITIZEN

ART. 6. All citizens have equal rights before the law.

Incitement to boycott of democratic institutions or organizations, incitement to attempts on the life of democratic politicians, the manifestation of religious and racial hatred and of hatred against other peoples, militaristic propaganda and warmongering as well as any other discriminatory acts are felonious crimes within the meaning of the Penal Code. The exercise of democratic rights within the meaning of the Constitution is not an incitement to boycott.

Whoever has been convicted of such a crime is disqualified from holding public office or a leading position in economic or cultural life. He also loses the right to vote and to stand for election.

ART. 7. Men and women have equal rights.

All laws and regulations which conflict with the equality of women are abolished.

ART. 8. Personal liberty, inviolability of the home, secrecy of the mail, and the right to take up residence at any place are guaranteed. State authority may restrict or revoke these freedoms only on the basis of a law applicable to all citizens.

ART. 9. All citizens have the right, within the limits of universally applicable laws, to express their opinion

freely and publicly and to hold unarmed and peaceful assemblies for that purpose. This freedom shall not be restricted by any service or employment status, and no one may be discriminated against for exercising this right.

There is no press censorship.

ART. 10. No citizen may be turned over to a foreign power by extradition.

Allies shall neither be extradited nor expelled, if, outside this country, they are subject to persecution because of their struggle in support of the principles embodied in this Constitution.

Every citizen has the right to emigrate. This right may be restricted only by a law of the Republic.

ART. 11. Free ethnic development of foreign-language elements of the population of the Republic is to be promoted by legislative and administrative action. In particular, they must on no account be prevented from using their native language in matters of education, internal administration and administration of justice.

ART. 12. All citizens have the right to form associations or societies for purposes not conflicting with criminal law.

ART. 13. Associations that, in accordance with their statutes, aim to bring about, on the basis of this Constitution, a democratic organization of public life and whose executive bodies are determined by their members, are entitled to submit nominations of candidates for election to membership in Gemeinde (community), Kreis (county) and Land (state) popular representative bodies.

Nominations for the People's Chamber may be made only by those associations which, pursuant to their statutes, aim to bring about the democratic organization of public and social life in the entire Republic and which maintain an organization throughout the territory of the Republic.

ART. 14. Everyone is guaranteed the right to organize for the improvement of wages and working conditions. Any agreements and measures intended to restrict this right or impede it are unlawful and prohibited.

(Recognized) trade unions are vouchsafed the right to strike.

ART. 15. (The individual's) capacity for work is protected by state authority.

The right to work is guaranteed. By means of economic control the state ensures to each citizen work and a living. Whenever suitable work cannot be found for him, he shall be provided necessary sustenance.

ART. 16. Every worker is entitled to recreation, to an annual leave with pay and to being provided for in illness and old age.

Sundays, holidays and the first of May are days of rest and are protected by law.

On the principle of autonomous administration by the insured, a unitary and comprehensive social insurance system serves to maintain the health and strength

of the working population, to protect motherhood, and to provide against the economic consequences of old age, disability, unemployment and other vicissitudes of life.

ART. 17. Workers and employees shall play a decisive part in the regulation of industrial production, wages, and working conditions in enterprises.

Workers and employees shall exercise these rights through trade unions and Works Councils.

ART. 18. The Republic shall establish uniform labor legislation, a uniform system of labor courts and uniform legislation for the protection of labor, in all of which the working population shall play a decisive part.

Working conditions must be such as to safeguard the health, cultural requirements and family life of the workers.

Remuneration for work must correspond to performance and must provide a worthwhile existence for the worker and those dependents entitled to his support.

Men and women, adults and juveniles, are entitled to equal pay for equal work.

Women enjoy special protection in employment relations. The laws of the Republic shall provide for institutions enabling women to co-ordinate their tasks as citizens and workers with their duties as wives and mothers.

Juvenile workers shall be protected against exploitation and saved from falling into moral, physical or mental neglect. Child labor is prohibited.

## II. THE ECONOMIC ORDER

ART. 19. Organization of economic life must conform to the principles of social justice; it must guarantee to all an existence compatible with the dignity of man.

It is incumbent upon the economy to contribute to the benefit of the whole people and to the satisfaction of its wants and to insure that everybody will obtain, in accordance with his performance, a just share in the yield of production.

Freedom (of enterprise in the) economic (field) is guaranteed to the individual within the scope of the above tasks and aims.

ART. 20. Farmers, traders and craftsmen are to be given support in the development of their private initiative. Mutual aid through co-operatives is to be expanded.

ART. 21. In order to secure the basic standard of living for its citizens and to promote their prosperity, the state, acting through its legislative bodies and with the direct participation of its citizens, establishes a public economic plan. It is the task of the popular representative bodies to supervise the implementation of the plan.

ART. 22. Private property is guaranteed by the Constitution. Its scope and its limitations are derived from law and from the obligations toward the welfare of the community at large.

The right of inheritance is guaranteed to the extent provided by civil law. The share of the Government in the estate is determined by law.

Intellectual work and the rights of authors, inventors, and artists enjoy protection, furtherance, and support by the Republic.

ART. 23. Restrictions on private property and expropriations may be imposed only for the benefit of the general public and on a legal basis. They shall take place against reasonable compensation unless the law provides otherwise. If the amount of compensation is in dispute, recourse to the ordinary courts shall be open insofar as a law does not provide otherwise.

ART. 24. Property commits to duties. Its use must not run counter to the public good.

Misuse of property with the intent of establishing an economic ascendancy to the detriment of the public good results in expropriation without compensation and transfer to the people's ownership.

Enterprises owned by war criminals and active National Socialists have been expropriated and will be transferred to the people's ownership (without compensation). The same shall apply to private enterprises offering their services to a warlike policy.

All private monopolistic formations such as cartels, syndicates, combines, trusts and similar private organizations aiming at an increase of profits through the control of production, prices and markets have been abolished and are prohibited.

Privately-owned large estates with an acreage of more than one hundred hectares are dissolved and shall be redistributed without compensation.

Following the accomplishment of the above agrarian reform, ownership of their land shall be guaranteed to the farmers.

ART. 25. All mineral resources, all economically exploitable natural power sources, as well as the mining, iron and steel and electric power industries serving their exploitation, are to be transferred to the people's ownership.

Until such transfer, their use will be supervised by the Laender or by the Republic insofar as the interests of the whole of Germany are involved.

ART. 26. Distribution and utilization of the land shall be supervised, and each abuse thereof shall be prevented. Incremental value of landed property which has accrued without expenditure of labor or capital is to be made of use to the collectivity.

Every citizen and every family shall be assured of a healthy dwelling befitting their needs. Herein special consideration shall be given to victims of fascism, to seriously disabled persons, persons having incurred special war losses and resettlers.

Maintenance and furtherance of assured returns from agriculture will be safeguarded also by means of land planning and conservation.

ART. 27. Private economic enterprises suitable for socialization may be transferred to collective ownership by law under the provisions dealing with expropriation.

The Republic, the Laender (states), the Kreise (counties) and Gemeinden (communities) may be given by law a decisive voice in the management, or otherwise, of enterprises and associations.

Economic enterprises and associations may, by legislation, be combined into autonomous organizations in order to ensure the collaboration of all working elements of the nation, to give workers and employers a share in the management, and to regulate production, manufacture, distribution, utilization, prices, as well as import and export of commodities along the principles of collective economic interests.

Consumer and buying co-operatives, profit-making co-operatives and agricultural co-operatives and their associations shall be integrated into the collective economy while preserving their statutes and characteristic features.

ART. 28. Any alienation or encumbrance of landed property, productive plants or shares therein owned by the people must have the approval of the popular representative body exercising jurisdiction over the title-holding agency. Such approval requires at least a two-thirds majority of the statutory number of members.

ART. 29. Property and income shall be taxed according to progressively increasing rates on the basis of social viewpoints and with particular consideration of family obligations.

Taxation must give special consideration to earned property and income.

### III. FAMILY AND MOTHERHOOD

ART. 30. Marriage and family are the foundations of collective life and are protected by the state.

All laws or statutory provisions by which the equal rights of men and women with the family are impaired are abrogated.

ART. 31. Parents have the natural right to bring up their children in a democratic spirit which will enable them mentally and physically to become responsible individuals, and this is their supreme duty towards society.

ART. 32. During maternity a woman has a rightful claim to particular protection and care by the state.

The Republic shall issue a law for the protection of mothers. Institutions are to be created to protect mother and child.

ART. 33. Extra-marital birth is to be no ground for discrimination against either the child or the parents.

Any laws and statutory provisions to the contrary are abrogated.

### IV. EDUCATION

ART. 34. Art, science, and their teaching, are free.

The state participates in their cultivation and grants them protection, especially against their abuse for purposes which are contrary to the provisions or the spirit of the Constitution.

ART. 35. Every citizen has an equal right to education and to a free choice of his vocation.

Education of youth and adult education of the citizenry in intellectual or technical disciplines are provided by public institutions in all fields of national and social life.

ART. 36. The Laender are responsible for the establishment of a public school system and for the practical operation of school instruction. To this effect the Republic shall issue uniform legislative provisions of a basic character. The Republic may itself establish public educational institutions.

The Republic shall issue uniform provisions for the training of teachers. Such training shall take place in the universities or institutions of equal status.

ART. 37. The school educates the youth in the spirit of the Constitution to be independently thinking and responsibly acting individuals who will be able and willing to take their place in the life of the community at large.

As conveyor of culture, the school has the task of educating the youth to be truly humane in the spirit of peaceful and amicable co-operation in the life of nations and genuine democracy.

The parents shall participate in the school education of their children by councils of parents.

ART. 38. Attendance at school is compulsory for all until completion of the eighteenth year of life. After completion of a primary school course compulsory for all children, training is pursued in a vocational or technical school, in high school or in other public educational institutions. All juveniles under eighteen years of age must attend a vocational or training school unless they attend another (public) school. Private schools as substitutes for public schools (state or municipal) are inadmissible.

Vocational and technical schools afford general and vocational training.

High schools (Oberschule) pave the way for admission to a university. Such admission, however, does not require high school attendance; attendance at other public educational institutions, which shall be extended or created for that purpose, may take its place.

All citizens must be given the opportunity to prepare their admission to a university in special preparatory schools.

Members of all classes of the population shall be given an opportunity to acquire knowledge in colleges of the people without interruption of their occupational activities.

ART. 39. Every child must be given the opportunity fully to develop its physical, mental and moral capacities. The school career of youth must on no account depend on the social or economic position of the parents. Indeed, children who are at a disadvantage because of social conditions are to be given special care. Attendance at vocational school, high school and university must be open to gifted pupils from all classes of the population.

Tuition is free. Text-books and instructional material used in compulsory schools are furnished without cost: in case of need, attendance at vocational school, high

school and university will be promoted through scholarships and other measures.

ART. 40. Religious instruction is a concern of the religious associations. The exercise of this right is guaranteed.

#### V. RELIGION AND RELIGIOUS ASSOCIATIONS

ART. 41. Every citizen enjoys complete freedom of faith and conscience. The practice of religion without interference enjoys the protection of the Republic.

Any abuse of establishments created by religious associations, of religious acts or religious instruction for purposes which are contrary to the principles of the Constitution or for purposes of party politics is prohibited. However, the right of religious associations to express an attitude in keeping with their own viewpoints towards issues vital for the people shall be uncontested.

ART. 42. Civil or civic rights and duties are neither conditioned nor restricted by the practice of religion.

Exercise of civil or civic rights or the admission to public service is independent of a religious creed.

No one is required to disclose his religious belief. Administrative agencies have the right to make inquiries about a person's membership in a religious association only insofar as rights and duties are connected therewith, or a statistical survey directed by law requires it.

No one may be forced to attend religious rites or celebrations, or to participate in religious exercises, or to use a religious form of oath.

ART. 43. There is no state church. Freedom of membership in religious associations is guaranteed.

Every religious association regulates and administers its affairs autonomously and in accordance with the laws applicable to all.

Religious associations remain public law corporations insofar as they were such heretofore. Other religious associations are granted like rights upon their application, if through their organization and the number of their members they offer a guarantee of permanency. If several such public law religious associations join in a union, this union is also a corporation of public law.

Religious associations having public law status are entitled to levy taxes upon their members on the basis of the governmental tax list according to (the standards of) the general provisions.

Associations whose function is the common cultivation of a philosophy of life have the same status as religious associations.

ART. 44. The right of the church to give religious instruction on school premises is guaranteed. Religious instruction is given by personnel selected by the church. No one may be forced to give, or be prevented from giving, religious instruction. Those entitled to bring up a child shall determine whether the latter shall receive religious instruction.

ART. 45. Public contributions to religious associations, which rest upon law, contract, or special legal title, shall be abrogated by legislation.

Ownership and other rights of the religious associations and religious unions, in respect to their institutions, foundations and other property devoted to purposes of worship, education and charity, are guaranteed.

ART. 46. Insofar as there exists a need for religious service and spiritual guidance in hospitals, penal institutions, or other public institutions, the religious associations are to be given an opportunity for religious exercises. No person may be forced to participate.

ART. 47. Any person wishing to resign from a public-law religious association and to have such resignation become legally effective, shall declare his intention before a court, or submit it in form of a publicly attested individual declaration.

ART. 48. Decision as to whether children up to fourteen years of age shall belong to a religious association rests with the persons entitled to bring them up. Older children shall decide themselves whether or not they wish to be members of an association or organization professing a religious creed or a philosophy of life.

#### VI. EFFECTIVENESS OF BASIC RIGHTS

ART. 49. A basic right may not be violated in its essential content, not even where this Constitution authorizes its restriction by law or makes its further development subject to (specific) legislation.

#### C. ORGANIZATION OF STATE AUTHORITY

##### I. THE POPULAR REPRESENTATIVE BODY OF THE REPUBLIC

ART. 50. The supreme authority of the Republic is the People's Chamber.

ART. 51. The People's Chamber is composed of the representatives of the German people.

Representatives are elected in universal, equal, direct and secret ballot for a term of four years, according to the principles of proportional representation.

Representatives serve the people as a whole. They are bound only by their own conscience and are not bound by any instructions.

ART. 52. All citizens who have passed their eightieth birthday have the right to vote.

All citizens who have passed their twenty-first birthday may stand for election.

The People's Chamber consists of four hundred representatives.

Details are determined by an Electoral Law.

ART. 53. Nominations for the People's Chamber may be submitted only by associations which satisfy the provisions of Article 13, paragraph 2.

Details are determined by a law of the Republic.

ART. 54. Elections are held on a Sunday or legal holiday. Freedom and secrecy of the ballot are guaranteed.

ART. 55. The People's Chamber convenes not later than thirty days after election, unless it is convoked by the previous Presidium for an earlier date.

The President must convoke the People's Chamber if the Government, or at least one fifth of the representatives in the People's Chamber, so request.

ART. 56. A new Chamber must be elected not later than sixty days after the end of a legislative term, or forty-five days after dissolution of the People's Chamber.

Before the completion of a legislative term, the People's Chamber may be dissolved only upon its own resolution or upon a referendum, except in the case described in Article 95, paragraph 6.

To dissolve the People's Chamber upon its own resolution, the consent of more than one half of the statutory number of representatives is necessary.

ART. 57. When first convening, the People's Chamber elects the Presidium and adopts Rules of Procedure. Each parliamentary party is represented in the Presidium, provided that it has at least forty members.

The Presidium consists of the President, his deputies, and of associate members.

The President directs the business of the Presidium and presides over the deliberations of the People's Chamber. Maintenance of order on the premises of the Chamber is his prerogative.

ART. 58. Resolutions of the Presidium are adopted by majority vote.

A quorum exists when at least half of the members of the Presidium are present.

Upon the resolution of the Presidium the acting President convokes the People's Chamber; he also fixes the date for new elections.

The Presidium continues in office until the convening of the new People's Chamber.

ART. 59. The People's Chamber examines the accreditation of its members and decides on the validity of elections.

ART. 60. For the periods when the People's Chamber is not in session, and after a legislative term has expired or the People's Chamber has been dissolved, the People's Chamber appoints three Standing Committees to carry on its functions, namely:

- a Committee of General Affairs,
- a Committee of Economic and Financial Affairs, and
- a Committee of Foreign Affairs.

These Committees have the same rights as investigating committees.

ART. 61. The People's Chamber adopts laws and resolutions by majority vote, unless this Constitution provides otherwise.

A quorum exists when more than half of the members of the Chamber are present.

ART. 62. Deliberations of the People's Chamber and of its committees are open to the public. The public may be excluded from the People's Chamber if two thirds of the representatives present so request, and from the committees on the demand of the majority of the members of such committees.

True records of public meetings of the People's

Chamber or its committees do not entail any responsibility.

ART. 63. The functions of the People's Chamber include:

- the determination of the principles of governmental policy, and of its implementation;
- the confirmation, supervision, and recall of the Government;
- the determination of administrative policies and supervision over all governmental agencies;
- the right to legislate, except when a (popular) referendum is held;
- decisions on the national budget, on the Economic Plan, on loans and credits of the Republic and the ratification of state treaties;
- the granting of amnesties;
- the election of the President of the Republic jointly with the Laender Chamber; and
- the election and recall of the members of the Supreme Court of the Republic and of the Prosecutor General of the Republic.

ART. 64. For the purpose of obtaining information, the People's Chamber or any of its committees may request the presence of the Minister President or any other Minister, their permanent deputies, or the chiefs of administrative agencies of the Republic. The members of the Government and deputies designated by them are authorized to attend meetings of the People's Chamber and its committees at all times.

If they so request, members of the Government or their deputies must be given the floor during deliberations, regardless of the agenda.

They are subject to the disciplinary authority of the President.

ART. 65. For the purpose of supervising the activities of governmental agencies, the People's Chamber has the right, or, if at least one fifth of the statutory number of representatives so request, the duty, to appoint investigating committees. These committees take such evidence as they or the representatives having requested the investigation deem necessary. They may for this purpose be represented by persons commissioned by them.

Courts and administrations must comply with the request of these committees, or persons acting on their instructions, for the taking of evidence and, upon demand, present their files for inspection.

In the taking of evidence by the investigating committees the provisions of the Criminal Procedure are applied correspondingly.

ART. 66. For the duration of the legislative term the People's Chamber establishes a Constitutional Committee, in which all parliamentary parties are represented according to their (numerical) strength. To this Committee shall also belong three members of the Supreme Court of the Republic as well as three German professors of constitutional law who must on no account be members of the People's Chamber.

Members of the Constitutional Committee are elected by the People's Chamber.

(Only) the Constitutional Committee reviews laws of the Republic as to their constitutionality.

Constitutionality of laws of the Republic may be challenged by not less than one third of the members of the People's Chamber, by its Presidium, by the President of the Republic, by the Government of the Republic and by the Laender Chamber.

Disputes on constitutional questions between the Republic and the Laender, and the compatibility of Land legislation and legislation of the Republic, are reviewed by the Constitutional Committee, with the assistance of three elected delegates of the Laender Chamber.

Final decision with respect to the report of the Constitutional Committee is reserved to the People's Chamber; the latter's decision is binding on everyone.

The People's Chamber also determines the execution of its decision.

The People's Chamber is, in the exercise of the administrative supervision delegated to it, responsible for determining whether an administrative measure is unconstitutional.

ART. 67. No proceedings, judicial or disciplinary, may at any time be instituted against any member of the People's Chamber for his vote or for any utterance made in the exercise of his parliamentary functions, nor may he be otherwise called to account outside the Chamber. This does not apply to defamation in the meaning of the Penal Code, if it has been established to be such by an investigating committee of the People's Chamber.

Restraint of personal freedom, house searches, seizures or criminal prosecution may not be instituted against representatives except with the consent of the People's Chamber.

Any criminal proceedings against a representative in the People's Chamber, and any arrest or other restraint of his personal freedom, is suspended for the duration of the session upon demand of the Chamber of which the representative is a member.

Members of the People's Chamber have the right to refuse to give evidence concerning persons who confided facts to them in their capacity as representatives, or to whom they have entrusted facts in this capacity, as well as concerning those facts themselves. In respect to seizure of documents, they enjoy the same privileges as persons who have the legal right to refuse testimony.

No search or seizure may be conducted in the premises of the People's Chamber without the consent of the Presidium.

ART. 68. Members of the People's Chamber do not require leave in order to perform their functions.

Persons standing as candidates for a seat in the People's Chamber must be granted such leave as is necessary to prepare for election.

Salaries and wages continue to be paid.

ART. 69. Members in the People's Chamber receive an allowance for expenses, which is tax-exempt.

Renunciation of the allowance for expenses is in-



admissible. The claim to the allowance for expenses cannot be transferred or garnished.

ART. 70. Members of the People's Chamber are entitled to free travel in all public transport.

## II. REPRESENTATION OF THE LAENDER

ART. 71. A Laender Chamber is established to represent the German Laender. In the Laender Chamber, each Land has one representative for every five hundred thousand inhabitants. Each Land has at least one representative.

ART. 72. The representatives in the Laender Chamber are elected by the Landtage (Land legislatures) in proportion to the numerical strength of the parliamentary parties represented therein. Laender Chamber representatives will serve for the duration of the legislative term of the respective Landtag. As a rule, Laender Chamber representatives should be Landtag members.

Each Landtag ascertains the wishes of its Land on matters to be deliberated in the Laender Chamber. This does not affect the rights of the representatives, as laid down in the Land Constitutions, to follow freely the dictates of their conscience.

ART. 73. The Laender Chamber elects its Presidium and adopts Rules of Procedure. The Presidium consists of the President, his deputies, and the associate members.

ART. 74. The Laender Chamber is convoked by its President whenever it is necessary for the transaction of its business.

The Laender Chamber is also convoked upon the demand of one fifth of its members.

ART. 75. Meetings of the Laender Chamber are open to the public. As far as provided in the Rules of Procedure, the public may be excluded if certain items of the agenda are discussed.

ART. 76. The Laender Chamber makes its decisions by majority vote, unless this Constitution provides otherwise.

ART. 77. The Laender Chamber may set up all necessary committees as provided in the Rules of Procedure.

ART. 78. The Laender Chamber has the right to introduce bills in the People's Chamber. It has the right to reject legislation, as provided in Article 84 of this Constitution.

ART. 79. Members of the Government of the Republic and of that of a Land have the right to, and, upon the demand of the Laender Chamber, are required to, take part in the deliberations of the Laender Chamber and its committees. They must be given the floor on any matter under deliberation, if they so request.

The People's Chamber may, in special cases, delegate representatives from among their numbers to present the opinion of the People's Chamber to the Laender Chamber; the Laender Chamber has an equal right to present its opinion to the People's Chamber. The

Laender Chamber may, if need be, instruct members of the Land Governments to present the attitude of their respective Governments to the People's Chamber.

ART. 80. Article 67 and subsequent articles of this Constitution concerning the rights of the members of the People's Chamber apply correspondingly to the members of the Laender Chamber.

## III. LEGISLATION

ART. 81. Laws are enacted by the People's Chamber, or directly by the people by means of a referendum.

ART. 82. Bills are introduced by the Government, by the Laender Chamber or by members of the People's Chamber. At least two readings will be held on any bill.

ART. 83. The Constitution may be amended by legislation.

The People's Chamber may enact legislation to amend the Constitution only if at least two thirds of the representatives are present, and such enactments require a two-thirds majority of those present.

If an amendment to the Constitution is to be adopted by means of a (popular) referendum, the approval of the majority of those entitled to vote is required.

ART. 84. The Laender Chamber has the right to veto laws enacted by the People's Chamber. The veto must be lodged within two weeks after the final vote has been taken in the People's Chamber; reasons for the veto must be submitted within an additional two weeks. Otherwise it is understood that the Laender Chamber will not exercise its right of veto.

The People's Chamber may override this veto by upholding its decision after renewed deliberations.

If a two-thirds majority of the Laender Chamber representatives casting their votes has decided to veto a measure, such veto can be overridden only if a two-thirds majority of the People's Chamber representatives casting their votes upholds the measure.

For the Laender Chamber to veto legislation enacted by the People's Chamber to amend the Constitution, at least two thirds of the members of the Laender Chamber must be present, and at least two thirds thereof must vote for the veto.

The People's Chamber may override the veto by upholding its amendment with the majority prescribed for amendments to the Constitution.

ART. 85. The President of the People's Chamber shall engross all constitutionally enacted laws within the period of one month.

They are promulgated without delay by the President of the Republic in the Official Gazette of the Republic.

A law cannot be engrossed nor promulgated, if it has been declared unconstitutional within one month, as provided for in Article 66.

Unless otherwise provided, laws come into force on the fourteenth day after their promulgation.

ART. 86. Engrossment and promulgation of a law are to be suspended for two months, if one third of the representatives in the People's Chamber so request.

Upon expiration of this period, the law is to be engrossed and promulgated unless a popular initiative calls for a (popular) referendum against the enactment of the law.

Laws declared urgent by the majority of the representatives in the People's Chamber must be engrossed and promulgated despite such (public) demand.

ART. 87. If the promulgation of a law has been suspended at the instance of at least one third of the representatives in the People's Chamber, such law is to be submitted to a (popular) referendum upon the demand of one twentieth of those entitled to vote.

A (popular) referendum shall furthermore be held, if requested by one tenth of those entitled to vote or by recognized political parties or organized groups which can demonstrate satisfactorily that they represent one fifth of those entitled to vote (constituting popular initiative).

A popular initiative must be based on a draft law, which law is to be submitted to the People's Chamber by the Government with a statement of the Government's position with respect to this law.

A (popular) referendum will take place only if the desired law has not been adopted by the People's Chamber in a version with which the petitioners or their representations are in agreement.

A (popular) referendum shall not be held on the budget, on tax legislation or on salary schedules.

A law submitted to a (popular) referendum is considered as adopted if it has received the consent of a majority of the votes cast.

A specific law shall regulate the procedures for popular initiative and (popular) referendum.

ART. 88. The budget and the economic plan are adopted by law.

Amnesties require a (specific) law.

State treaties concerning matters of legislation are to be promulgated as laws.

ART. 89. Laws which have been duly promulgated cannot be reconsidered by the judiciary with respect to their constitutionality.

After the review proceedings provided for in Article 66 have been instituted, all pending court proceedings shall be suspended until the review proceedings have been completed.

ART. 90. General administrative regulations required for the implementation of the laws of the Republic will be issued by the Government of the Republic, unless the law provides otherwise.

#### IV. THE GOVERNMENT OF THE REPUBLIC

ART. 91. The Government of the Republic consists of the Minister President and the Ministers.

ART. 92. The Minister President is appointed by the party with the greatest strength in the People's Chamber; he (the Minister President) forms the Government. All parties having at least forty representatives (in the People's Chamber) are represented by Ministers or State Secretaries in proportion to their strength.

State secretaries may attend meetings of the Government in an advisory capacity.

Should one parliamentary party refuse to be included, the Government will be formed without it.

Ministers should be members of the People's Chamber.

The People's Chamber approves the Government and the program submitted by it.

ART. 93. On taking office, members of the Government shall be sworn in by the President of the Republic and pledged to perform their duties impartially for the welfare of the people and in faithful observance of the Constitution and the laws.

ART. 94. The Government, and each of its members, require the confidence of the People's Chamber in order to perform their functions.

ART. 95. The functions of the Cabinet are terminated if and when the People's Chamber passes a motion of no-confidence.

A motion of no-confidence will be voted on only if at the same time a new Minister President and his program are proposed. The motion of no-confidence and these proposals will be considered in one combined vote.

A vote of no-confidence shall not be effective unless the motion is carried by at least one half (two hundred) of the statutory number of representatives.

A motion of no-confidence must be signed by at least one fourth of the members of the People's Chamber. A vote on such a motion may not be taken prior to the second day after it has been debated, and not later than one week after its presentation.

Unless the new Government takes office within twenty-one days after the motion of no-confidence has been carried, that motion shall become void.

If the new Government receives a vote of no-confidence, the People's Chamber shall be considered dissolved.

The former Government continues its functions until a new Government has taken office.

ART. 96. A member of the Government who receives a vote of no-confidence from the People's Chamber must resign. Unless decided otherwise by the People's Chamber, he is to continue his functions until his successor takes office.

The provision of Article 95, paragraph 3, is applicable correspondingly.

Any member of the Government may resign at any time. Unless decided otherwise by the People's Chamber, his official functions shall be performed by his deputy until a successor has been appointed.

ART. 97. The Minister President presides over the Government and directs its business under Rules of Procedure to be decreed by the Government and communicated to the People's Chamber.

ART. 98. The Minister President determines governmental policy in accordance with the guiding principles laid down by the People's Chamber. For this, he is responsible to the latter.

Within the framework of these guiding principles, each Minister directs independently the department entrusted to him and is personally responsible to the People's Chamber.

ART. 99. Ministers shall refer to the Government, for deliberation and decision, all bills, any matters which must be referred to it under the Constitution or the law, as well as differences of opinion with respect to matters which fall within the competence of more than one Minister.

ART. 100. The Government makes decisions by majority vote. In case of a tie, the Minister President shall cast the deciding vote.

#### V. THE PRESIDENT OF THE REPUBLIC

ART. 101. The President of the Republic is elected for a term of four years by the People's Chamber and the Laender Chamber, meeting in joint session, which is convoked and presided over by the President of the People's Chamber.

Any citizen who has reached the age of thirty-five years may stand for election.

ART. 102. On assuming office, the President of the Republic takes the following oath before a joint session of the People's Chamber and the Laender Chamber:

"I swear that I will dedicate my strength to the welfare of the German people, that I will defend the Constitution and the laws of the Republic, that I will discharge my duties conscientiously and do justice to all."

ART. 103. The President of the Republic may be recalled before the expiration of his term by a joint resolution of the People's Chamber and the Laender Chamber. Such a resolution requires a two-thirds majority of the statutory number of representatives.

ART. 104. The President of the Republic promulgates the laws of the Republic.

He receives the oath of office from members of the Government upon their assumption of duties.

ART. 105. The President of the Republic represents the Republic in international relations.

He concludes and signs treaties with foreign countries on behalf of the Republic.

He accredits and receives ambassadors and ministers.

ART. 106. To become effective, all orders and decrees issued by the President of the Republic must be countersigned by the Minister President or the competent Minister.

ART. 107. The President exercises the right of pardon on behalf of the Republic. In this function he is advised by a committee of the People's Chamber.

ART. 108. Whenever the President of the Republic is unable to attend to his office, he is represented by the President of the People's Chamber. If such incapacity is expected to continue for a protracted period, a substitute will be appointed by (a specific) law.

Whenever the presidency is terminated prematurely, the same rule applies until the election of a new President.

#### VI. REPUBLIC AND LAENDER

ART. 109. Each Land must have a constitution which conforms to the principles of the Constitution of the Republic and under which the Landtag is the supreme and sole popular representative body in the Land.

The popular representative body must be elected, by all citizens entitled to do so, in universal, equal, direct and secret ballot held in accordance with the principles of proportional representation as laid down in the Electoral Law of the Republic.

ART. 110. Any change in the territory of a Land and the formation of a new Land within the Republic requires a law of the Republic amending the Constitution.

Only an ordinary law (of the Republic) is required if the Laender immediately affected concur.

An ordinary law will likewise suffice, even if one of the Laender affected does not concur, provided, however, that the territorial change or the formation of a new Land is demanded by a plebiscite held in the territories concerned.

ART. 111. The Republic may enact uniform legislation in any field. However, in so doing it should confine itself to laying down principles, provided this meets the need for uniform regulation.

To the extent that the Republic does not exercise its legislative power, the Laender shall have such power.

ART. 112. The Republic has the exclusive right to legislate on:

- foreign relations;
- foreign trade;
- customs and the free movement of commodities within a unified customs and trade area;
- citizenship; freedom of movement; immigration and emigration; extradition; passport regulations and laws affecting the status of aliens;
- legislation on census and registry (marriage, divorce and status of children);
- civil law; criminal law; the constitution of courts and their procedure;
- labor law;
- transport;
- the fields of postal, telecommunication, and radio broadcasting services;
- the fields of press and of film production, distribution and display;
- currency and coinage, weights, measures, standards and gauging;
- social insurance; and,
- war damages, occupation costs and reparations.

ART. 113. Legislation in the field of finance and taxation must be of such nature as not to infringe upon the existence of the Laender, the Kreise (counties) and Gemeinden (communities).

ART. 114. Law of the whole of Germany overrides Land law.

ART. 115. As a rule, the laws of the Republic are carried out by the executive agencies of the Laender, unless otherwise provided for in this Constitution or by a law. The Republic, insofar as there is a necessity, establishes its own administrative agencies by law.

ART. 116. The Government of the Republic exercises supervision in those matters with respect to which the Republic has the right to legislate.

The Government of the Republic may issue general instructions where the laws of the Republic are not executed by its (own) administrative authorities. For the supervision of the execution of these laws and instructions, it is authorized to delegate commissioners to the implementing agencies. As for the powers of these commissioners, Article 65 is correspondingly applicable.

Upon the request of the Republic, the Laender governments are bound to remedy deficiencies discovered in the execution of the laws of the Republic.

Any controversies arising therefrom are to be examined and settled in accordance with the procedure specified in Article 66, paragraph 5.

#### VII. ADMINISTRATION OF THE REPUBLIC

ART. 117. Maintenance of foreign relations is an exclusive concern of the Republic.

The Laender may conclude treaties with foreign states on matters within the competence of Land legislation; such treaties (before taking effect) are subject to the approval of the People's Chamber.

Treaties with foreign states concerning changes of national boundaries are concluded by the Republic, after the consent of the Land thereby affected has been obtained. Boundary changes may be effected only by a law of the Republic, unless a mere rectification of boundaries in uninhabited areas is involved.

ART. 118. Germany forms a single customs and trade area, bounded by a common customs frontier.

Territories of foreign states or parts of such territories may be included in the German customs area by treaty or convention. Parts of the German customs area may be excluded therefrom by law.

Any goods enjoying internal free trade within the German customs area may, within the area, freely be introduced into, or carried in transit across the boundaries of, German Laender and political subdivisions as well as, pursuant to paragraph 2, into, or across the boundaries of, the territories of foreign states or parts of such territories included.

ART. 119. Customs and such taxes as are regulated by laws of the Republic are administered by the Republic.

The power to levy taxes is, normally, vested in the Republic.

The Republic should levy taxes only to the extent required to cover its needs.

The Republic establishes its own agencies for the administration of taxes. In conjunction therewith, arrangements shall be made enabling the Laender to safeguard their special interests in the spheres of agri-

culture, commerce, handicrafts, trades or professions, manufacture and industry.

To the extent required for the uniform and equitable enforcement of its tax laws, the Republic shall enact legislation on the organization of tax administrations in the Laender, the organization and powers of the authorities entrusted with the enforcement of the tax laws of the Republic, the settlement of accounts with the Laender, and the reimbursement for the administrative costs incurred in the enforcement of the tax laws of the Republic.

ART. 120. Taxes and other levies may be assessed only as provided by law.

Property, income and excise tax legislation are to be kept in a suitable proportion to each other, and to be graduated according to social considerations.

Through sharply progressive tax rates on inheritance, the amassing of socially harmful fortunes should be prevented.

ART. 121. Revenues and expenditures of the Republic must be estimated for each fiscal year and provided for in the budget. The budget is to be enacted by legislation before the beginning of the fiscal year.

ART. 122. The Minister of Finance, in order to secure a discharge for the Government, gives an accounting to the People's Chamber of the revenues of the Republic and their use. The auditing of accounts is regulated by law of the Republic.

ART. 123. Funds may be procured by borrowing only for extraordinary needs. Borrowing of such funds and the guaranteeing of loans as a charge of the Republic may be effected only on the basis of a law of the Republic.

ART. 124. Postal, telecommunication, broadcasting and railroad services are to be administered by the Republic.

The former Reich Autobahnen (auto-highways) and Reich highways as well as all roads for long-distance traffic are under the control of the Republic. The same provisions apply to waterways.

ART. 125. Control of merchant shipping and the administration of maritime shipping, and of aids to navigation, are duties of the Republic.

#### VIII. ADMINISTRATION OF JUSTICE

ART. 126. The ordinary administration of justice is exercised by the Supreme Court of the Republic and by courts of the Laender.

ART. 127. In the exercise of their judicial function, the judges are independent and are bound only by the Constitution and the Law.

ART. 128. Judges must be persons who, by their qualification and activity, offer the guarantee that they will exercise their office in accordance with the principles laid down in the Constitution.

ART. 129. Through the development of law schools, the Republic provides an opportunity for members of

all classes of the population to become qualified for the profession of judge, attorney and public prosecutor.

ART. 130. Laymen are, as much as possible, to be used as judges.

Laymen are elected, on the proposal of democratic parties and organizations, by the competent popular representative bodies.

ART. 131. Judges of the Supreme Court of the Republic, and the Prosecutor General of the Republic, are elected by the People's Chamber upon their nomination by the Government of the Republic.

Judges of the High Courts of the Laender, and the Prosecutors General of the Laender, are elected by the Landtag upon their nomination by the Land governments.

All other judges are appointed by the Land governments.

ART. 132. Judges of the Supreme Court, and the Prosecutor General of the Republic, may be recalled by the People's Chamber if they violate the Constitution, or the laws, or commit a serious breach of their duties as judge or public prosecutor.

This recall is effected after hearing the report of a Committee on Justice to be established in the People's Chamber.

The Committee on Justice is composed of the chairman of the Legal Committee of the People's Chamber, three members of the People's Chamber, two members of the Supreme Court and one member of the Prosecutor General's office. It is presided over by the Chairman of the Legal Committee. The other Committee members are elected by the People's Chamber for the legislative term. The members of the Supreme Court and the Prosecutor General's office serving on the Committee on Justice cannot be members of the People's Chamber.

Judges elected by a Landtag, or appointed by a Land government, may be recalled by the respective Landtag. Their recall will be effected after hearing the report of a Committee on Justice to be set up with the respective Landtag. The Committee on Justice is composed of the Chairman of the Legal Committee of the Landtag, three members of the Landtag, two members of the Land High Court and one member of the Prosecutor General's office of the respective Land. It is presided over by the Chairman of the Legal Committee. The other Committee members are elected by the respective Landtag for the duration of the legislative term. The members of the (Land) High Court and of the Prosecutor General's office, and participating in the Committee on Justice, cannot be members of the Landtag.

Judges appointed by Land governments may, under the same conditions, be recalled by the respective Land government, provided that the consent of the Landtag Committee on Justice has been obtained.

ART. 133. All court proceedings are open to the public.

In all matters involving a threat to public safety

and order, or to public morals, the court may order the public to be excluded.

ART. 134. No citizen should be deprived of his right to be tried before the judge having lawful jurisdiction in the matter. Extraordinary courts are inadmissible. The legislative authorities may set up courts for special matters only if their competence is to comprise categories of persons or issues defined beforehand and in a general way.

ART. 135. Only such penalties may be imposed as have been provided for by law at the time the punishable act was committed.

No penal law has retroactive force.

Exceptions to this rule are measures and the application of provisions which are adopted for the overcoming of Nazism, Fascism and militarism, or which are necessary for the prosecution of crimes against humanity.

ART. 136. In cases of temporary arrest, house searches and seizures effected in the course of a preliminary investigation, the approval of a judge must be obtained without (undue) delay.

It rests with the judge alone to decide on the admissibility and continuance of an arrest. Persons arrested must be brought before a judge at the latest on the day after their apprehension. If pretrial confinement is ordered by the judge, he must make a periodic review as to whether continued detention is justified.

The reason for the detention is to be communicated to the arrested person at his first examination by a judge and, if he so desires, within an additional twenty-four hours to a person to be named by him.

ART. 137. Execution of sentences is founded on the concept of reforming persons capable of rehabilitation through common productive work.

ART. 138. Citizens are protected against unlawful administrative measures by the supervision exercised by the legislature and through recourse to administrative courts.

The structure and jurisdiction of administrative courts are regulated by law.

Principles applying to the election and recall of judges of ordinary courts apply correspondingly to the members of administrative courts.

#### IX. ADMINISTRATIVE AUTONOMY

ART. 139. Gemeinden and Gemeindeverbaende (communities and associated communities) enjoy administrative autonomy subject to the provisions of the laws of the Republic and the Laender.

Autonomy functions include determination and implementation of all policies concerning the economic, social and cultural life of the Gemeinde or Gemeindeverband. Each task is to be accomplished by the lowest (local) administrative unit qualified for this purpose.

ART. 140. Gemeinden and Gemeindeverbaende have representative bodies organized on democratic principles.

To assist them, committees are formed in which delegates of the democratic parties and organizations participate responsibly.

The right to vote and the procedure to be followed in (local) elections are governed by the provisions applying to elections to the People's Chamber and to the Landtage.

The right to vote may, however, by Land legislation be predicated on the length of residence in the (respective) locality for a period not to exceed half a year.

ART. 141. For the due exercise of their functions, the elected executive authorities of Gemeinden and Gemeindeverbaende require the confidence of the (local) representative bodies.

ART. 142. Supervision of the administrative autonomy practiced by Gemeinden and Gemeindeverbaende

is limited to a review of the statutory compliance of administrative measures and of the observance of democratic administrative principles.

ART. 143. The Republic and the Laender may delegate functions, and the application of laws, to the Gemeinden and Gemeindeverbaende.

#### X. TRANSITIONAL AND CONCLUDING PROVISIONS

ART. 144. All provisions of this Constitution have direct force of law. Any provisions to the contrary are repealed herewith. Provisions superseding them and required to implement the Constitution are to take effect simultaneously with the Constitution. Existing laws are to be interpreted in the meaning of this Constitution.

Constitutional liberties and rights may not be used as arguments against past or future measures adopted for the overcoming of National Socialism and militarism, or to redress wrongs caused by them.

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## COMPARATIVE WORKS

The chronic nature of the postwar political crises has made the task of those who write on comparative government a particularly difficult one. When everything is in flux, there is neither the time nor the opportunity for a prolonged, detailed, and penetrating study of individual institutions, not to mention the careful and philosophical analysis of a political system as a whole. The modern author must look back with nostalgia to the time when a Lowell in his *Governments and Parties of Continental Europe*, or a Bryce in his *Modern Democracies*, could examine governments which, however changeable they may have appeared to their contemporaries, possessed an element of stability and an expectation of continuity which, in most of the modern world, are the exception. Nonetheless there is an increasing number of works which consider contemporary institutions in relation to fundamental issues and thus are both illuminating and instructive.

In general, the books on comparative government fall into two classes, those which provide a careful study of the political institutions and practices of individual countries treated separately one from another, and those which are primarily comparative in their approach, studying procedures and institutions rather than countries and attempting to arrive at generalizations concerning the fundamental political problems which affect most modern countries. In the first category fall the volumes written or edited by Ogg and Zink, Morstein Marx, R. Neumann, Rouček, Fellman, and Shotwell. Valuable illustrative material on particular governments is included in the several source books of which that by Hill, Stoke, and Schneider is particularly useful.

Those books which attempt to cut across different countries and to consider common problems and trends are, in general, more rewarding and more difficult to read, and they require some earlier familiarity with the politics of individual countries. Finer's revised edition of *The Theory and Practice of Modern Government* contains a vast amount of detailed information and many provocative judgments. Friedrich's comparison of democratic governments is not only a remarkably thorough and competent survey but a searching consideration of the most important problems of constitutional government. Though somewhat outdated, Neumann's *Permanent Revolution*, a comparison of dictatorial institutions and phenomena, is still suggestive and illuminating in an age when the dictator-

ships have not disappeared. Corry's *Elements of Democratic Government*, which confines itself to the British, American, and Soviet governments, is a useful introductory treatment.

Certain books which are not concerned with comparative government as such nevertheless consider problems of the utmost importance for this field. Carl Becker's lucid *Modern Democracy* is still one of the best short introductions to the present problems of democratic government, while the opening sections of E. H. Carr's *Conditions of Peace*, and his later *The New Society*, provide an eloquent, if controversial, statement of the outstanding challenges to the survival of Western democracy. Karl Popper's *The Open Society* is a provocative analysis of the ideological differences between democracy and dictatorship. Francis Wilson's text, *The Elements of Politics*, is an extensive and systematic introduction to the nature of modern politics. In addition, the person who already has some familiarity with the working of individual governments will find it extremely rewarding to ponder the reflections of mature and thoughtful observers like Barker, Lindsay, and MacIver.

At a time when the course of politics changes so rapidly, the reading of good periodicals is indispensable, both in order to keep up with the precise nature of new developments and because the better periodicals contain analyses, interpretations, and commentaries which reflect the insight and experience of highly trained observers. One ought therefore to read a daily newspaper of the quality of the *New York Times*, the *New York Herald Tribune*, the *Christian Science Monitor*, or, among British publications, *The Times* of London or the *Manchester Guardian*. Weeklies like the *Economist* or the *Manchester Guardian Weekly* in Great Britain are of the greatest value, both for the completeness and reliability of their information and for the discriminating nature of their comment. In addition, some of the most intelligent comment is to be found in periodicals like the *Nation* in the United States or the *New Statesman and Nation* in Great Britain, which are journals of opinion rather than news magazines. Periodicals like *Foreign Affairs*, the *Foreign Policy Reports* (now discontinued), and the *Round Table* contain many authoritative articles on foreign politics; while many of the most important descriptions of political institutions and discussions of political developments and issues are to be found in scholarly periodicals like the *American Political Science Review*, the *Political Science Quarterly*, the *Political Quarterly*, the *Review of Politics*, and the *Journal of Politics*.



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*International Labor Review* (Geneva)  
*Journal of Politics*  
*Nation*  
*New Leader*  
*New Republic*  
*New York Herald Tribune*  
*New York Times*  
*Pacific Affairs*  
*Political Science Quarterly*  
*Public Administration Review*  
*Public Opinion Quarterly*  
*Reporter*  
*Review of Politics*  
*Western Political Quarterly*  
*World Politics*

## GREAT BRITAIN

### General Works

If the British people have been exceptionally adept in the construction of political institutions, they have been no less adept—or prolific—in their analysis. The discrepancy between constitutional form and constitutional fact, and the constant, if often imperceptible, change in the function and character of institutions which remain the same in outward appearance, present an extraordinary challenge to the insight and judgment of the British writer on politics. In contrast to American political literature, which abounds in direct, factual description of the constitutional structure and of political forms, British political writing has been peculiarly rich in attempts to look beneath the forms, to seek out the real springs of political action, and, in the process, to raise the most fundamental and difficult questions about the nature and course of political development. In consequence, a remarkable succession of penetrating observers and acute analysts—Bagehot, Low, and Muir, to name only three—have left a series of classic political studies which, however outdated in their factual foundation, are an enduring repository

of political wisdom. Thus while some of Bagehot's most perceptive generalizations have been completely reversed with the passage of time, the person who reads Bagehot today will nevertheless learn much about the meaning of politics.

Of the more recent studies, Jennings' *The British Constitution* offers the best short introduction to British politics; his more detailed *Cabinet Government* is profoundly useful for their understanding. Muir's *How Britain Is Governed* represents the forebodings of the declining Liberal Party, while Laski and Greaves offer provocative interpretations from the Socialist point of view, some of the weaknesses of which have been revealed by subsequent political developments. Among recent studies Virginia Cowles' *No Cause for Alarm* is particularly attractive while Watkins' *Cautious Revolution* is fair-minded and comprehensive.

The tradition of perceptive and mature analysis is carried on today by several British periodicals, and anyone who wishes to understand the present course of British politics should become familiar with such newspapers as *The Times* (which frequently represents the attitude of the Government) and the *Manchester Guardian* (which is typical of the more advanced wing of the Liberal Party) and with such periodicals as the *Economist* (scholarly, nonpartisan and extraordinarily informative), the *Spectator* (moderately Conservative), and the *New Statesman and Nation* (Labor), as well as with the other magazines listed below.

The British also have a tradition of issuing well-written government papers, e.g., the reports of Royal Commissions of Inquiry and statements of official policy. These are known as Command papers, designated *Cmd.*, and numbered consecutively by date of issue. Any students of British politics will find them a valuable source of information.

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*Parliamentary Affairs*  
*Political Quarterly*  
*Public Administration*  
*Quarterly Review*

- Round Table*  
*Spectator*  
*The Times*  
*The World Today*

#### Chapter 1. British People and Politics

In analyzing the outstanding characteristics of a country and its people, the observations of foreigners often are more revealing than those of natives, who, perhaps, are prone to take their own institutions and ways too much for granted. In any event, the American who seeks an introduction to the British way of life may choose among American (Brinton, Gaus), French (Maillaud), German (Dibelius), and Swedish (Witting) interpretations. For a picture of the British as they see themselves, one can turn to Brogan (whose intimate acquaintance with American and French culture and politics renders him exceptionally well qualified to act as interpreter), Barker, or Inge. More specialized studies of distinct aspects of British life are listed below.

In understanding the position of the "ruling class" before World War II, the writings of Abshagen and Haxey are interesting and informative, but a novel like John Galsworthy's *Maid in Waiting* is more likely to convey the spirit of the system as understood by the privileged classes than any factual description. Lewis and Maude's *The English Middle Classes* is a discerning study of the groups which have borne the brunt of recent economic changes.

Though the Report of the Royal Commission on the Press is now available, the "P.E.P." *Report on the British Press* still retains considerable value as a searching and fair examination. Francis Williams' *Press, Parliament and People* contains a competent and revealing discussion, while Lord Camrose's volume presents the attitude of the publishers themselves.

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## Chapter 2. The British Political Heritage

Bagehot's *The English Constitution* (cited under General Works) and Dicey's *Introduction to the Study of the Law of the Constitution* are two of the great classics of British political literature, however much the interpretations of their authors may be questioned or challenged today. No contemporary account has achieved the same standing as a classic, but Amery's *Thoughts on the Constitution* and Laski's *Reflections on the Constitution* are both perceptive and illuminating.

Two exceptionally fine expositions of the principles of Conservatism and Liberalism are to be found in the writings of Cecil and Hobhouse: it is perhaps significant that a contemporary Conservative would have to make relatively few changes in Cecil's presentation, while many of those who held Hobhouse's position before World War I would today be members of the liberal or humanitarian wing of the Labor Party. Two modern, if less classic, explanations of the position of the leading parties today are found in the pair of Penguin Books by Quintin Hogg and John Parker (cited under Chapter 3).

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## Chapter 3. British Parties and Elections

Apart from the accounts contained in studies of British government in general, there is no single comprehensive book about the British party system, although many excellent books and monographs deal with special aspects. As examples one might cite Dean McHenry's careful analysis of the Labor Party before World War II or the studies by McCallum and Readman of the election of 1945 and by Nicholas of the election of 1950.

Perhaps the most vivid and realistic picture is to be acquired from a reading of literature published by the different parties. The reports of both the Conservative and the Labor Party conferences are exceptionally

revealing. The official programs of the parties of course explain their formal stand; but more of the spirit of party policy can be caught in pamphlets like *Why Not Trust the Tories?* by Aneurin Bevan (Celticus) or *The Left Was Never Right* by Quintin Hogg. Howard Spring's fictional history of the Labor Party, *Fame Is the Spur*, explains its growth and spirit better than many a more factual account. Patricia Strauss's *Bevin and Co.* conveys something of the spirit of mission and urgency which help to explain the Labor victory of 1945, while Jennie Lee's *This Great Journey* is the autobiography of one of the Labor Party's most active and popular leaders. All of the parties publish a constant stream of pamphlets and a variety of periodicals, many of which are listed below. The Fabian Society in its role as a research organization continues to issue much material of general usefulness.

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*Talking Points*

*Young Socialist*

##### Liberal Party

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*Liberal News*

*Westminster Newsletter*

## Chapter 4. The British Parliament

Among the innumerable popular introductions to Parliament and its work, the most interesting are those written by Members of Parliament: Brown, Herbert, and Hogg. Jennings' *Parliament* is by far the most comprehensive and able analysis of its action, although Josef Redlich's earlier work on the House of Commons is still extremely valuable. The reader who would like a very human picture of Parliament in action should turn to Sir A. P. Herbert's *The Ayes Have It*. There is, however, no substitute for a reading of the *Parliamentary Debates* (Hansard) themselves. The magazine of the Hansard Society, *Parliamentary Affairs*, contains articles too numerous to list on a great variety of aspects of parliamentary life. J. F. S. Ross's *Parliamentary Representation* contains a valuable and interesting analysis of the membership of the House of Commons between the wars, while the *House of Commons Guide*, published by *The Times* after each election, contains short biographies of the Members of Parliament together with statistics on the popular vote by which they were elected. As for procedure, the *Standing Orders* of the House of Commons and Sir Thomas Erskine May's treatise on parliamentary practice, if not particularly lively reading, are highly informative.

Many writers, of course, are concerned with the "decline of Parliament" and the loss in independence of the private Members. A characteristic statement is contained in W. J. Brown's *Everybody's Guide to Parliament* (Mr. Brown was himself one of the very few independent M.P.'s), while Hewart and Allen (cited under Chapter 8) typify the alarm over the delegation

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## Chapter 5. The British Cabinet, Prime Minister, and King

The position of the Cabinet, the Prime Minister, and the King are largely a function of the personalities of the men who hold these offices, and in this sense one of the best sources for information about the nature of British political leadership lies in the biographies and memoirs (of which only a few are cited) of contemporary statesmen. Unfortunately, however, those statesmen whose careers are ended and about whom we therefore have relatively complete information represent a stage in British constitutional development which already has been superseded, while the biographies of the active political leaders of today often are popular, incomplete, and lacking in the intimate detail concerning the making of policy which alone would permit an accurate estimate of the actual position and powers of the leaders of the government today. Current periodicals contain a certain amount of gossip and speculation of varying validity, and writings of men like Salter and Williams contain some revealing information about the relations of Cabinet and Prime Minister. Amery's *Thoughts on the Constitution* (cited under Chapter 2) presents an unorthodox interpretation, which is based, however, upon the author's personal experience as a Cabinet member, while Lord Hankey's *Diplomacy by Conference*, despite its name, is a valuable source of information on the development of the Cabinet secretariat. The most comprehensive and competent discussion of the British executive as a whole is Jennings' *Cabinet Government* (cited under General Works).

Of the writers on the British monarchy, Sir Ernest Barker perhaps best typifies the attitude of the intelligent but conventional Englishman, while Kingsley Martin's lively and more sophisticated analysis represents a less orthodox approach. Viscount Esher's journals and letters reveal how active a political role the monarch could assume in the early years of the present century, while Laski's pamphlet suggests the hostility which any new intervention would be likely to arouse among the intellectual leaders of the Labor Party.

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## Chapter 6. The National Administration of Great Britain

No one book covers the entire subject of public administration in Great Britain. The annual *Economic*

*Surveys* provide a wealth of information on economic conditions and the 1947 issue outlines the structure for planning. Sir William Beveridge's *Full Employment in a Free Society* (cited under Chapter 9) deals with many problems arising out of the government's new social and economic responsibilities, but pays relatively little attention to administrative structure. It is necessary, therefore, to read a number of specialized books in order to secure the more general picture of public administration in Great Britain today. Among the more suggestive books of this specialized character, Sir Oliver Franks' little book on *Central Planning and Control in War and Peace* ranks high. Sir Thomas Heath's *The Treasury* is one of the older books which still holds its own as a comprehensive study of how an individual ministry (and a particularly important one) functions. All the nationalized industries issue annual reports which are not specifically cited here. *Public Enterprise*, edited by W. A. Robson, is a useful survey in this field, and his articles are particularly valuable. Sir George Stapledon's *Make Fruitful the Land* is a short, very readable account of problems and possibilities by an influential figure in British agriculture. Other useful books are U. K. Hicks' *Public Finance* and the study by Vernon, *Advisory Bodies*.

Planning is still a highly controversial subject as witness Jewkes' *Ordeal by Planning*. Nationalization, except for iron and steel, is more generally accepted but there are many studies including the excellent series by the Acton Trust (No. 1 on *Accountability to Parliament* is particularly useful) which seek to improve their operations.

Several books on the national public service combine scholarship with a fresh and lively approach. The best book in this field is Kingsley's *Representative Bureaucracy*, an acute and critical analysis of the strengths and weaknesses of the service. Hiram Stout's *Public Service in Great Britain* describes the civil service within the general context of government as a whole, while Emmeline Cohen's *The Growth of the British Civil Service, 1780-1939*, shows the historical evolution which has had so profound an influence on the present character of the British civil service. H. E. Dale's *The Higher Civil Service* provides a valuable picture based upon personal experience. *The Civil Service in the Changing State*, by H. R. G. Greaves, raises some of the most significant current problems. The most comprehensive account of the Whitley Councils is L. D. White's *Whitley Councils in the British Civil Service*.

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## Chapter 7. British Local Government

There are many good books on local government in England and Wales. J. A. Hawgood's *The Citizen and Government*, which is distinguished by a series of beautifully constructed diagrams, places local government in its context of self-government. A much more comprehensive study is *Local Government in England* by F. L. Hasluck. Other useful and readable books in this field are Herman Finer's *English Local Government*, G. D. H. Cole's *Local and Regional Government*, W. E. Jackson's *Local Government in England and Wales*, K. B. Smellie's *A Short History of Modern Local Government*, and J. H. Warren, *The English Local Government System*. Herbert Morrison's *How London is Governed* is an excellent short account by one long familiar with the working of its institutions. An older book, E. D. Simon's *A City Council from Within*, provides a vivid account based on long personal experience.

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## Chapter 8. The Law and the Courts of Great Britain

The complicated and technical nature of the subject of law and justice is an effective impediment to any lively or provocative discussion. The best introduction to the subject is W. M. Geldart's *Elements of English Law*, a book which deserves careful and repeated reading. Roscoe Pound's *The Spirit of the Common Law* and Vinogradoff's *Common Sense in Law* contain illuminating interpretations, while C. K. Allen's *Law in the Making* is a thoroughly competent book occasionally enlivened by vivid illustrations. Although outdated in part, R. C. K. Ensor's *Courts and Judges in France, Germany, and England* is still the best study of courts and judges. R. M. Jackson's *The Machinery of Justice in England* is a pioneer effort to place the legal system in its appropriate social setting and Tillet's *The Law and the People* carries on this tradition. Slessor's *The Administration of the Law* is a competent survey and C. P. Patterson's *The Administration of Justice in Great Britain* is useful in its careful explanation of those aspects of the subject which British writers are apt to take for granted. On administrative law, it is well to read both C. K. Allen's *Law and Orders* and Sir Cecil Thomas Carr's *Concerning English Administrative Law* to secure contrasting views. Lord Hewart's *The New Despotism* is still important both for its argument and for its historical significance.

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## Chapter 9. Great Britain: A New Society?

The constant output of books on education, social security, town and country planning, and industrial relations means that any reading list becomes both incomplete and outdated within a short time. On the subject of education, the two little books in the British Council series (Sir Ernest Barker's *British Universities* and J. E. Hales' *British Education*) are illuminating and suggestive. *The Beveridge Report* itself is the most fundamental and perhaps the most interesting work in the field of social security. Karl de Schweinitz's *England's Road to Social Security, 1349-1947*, is the standard history on the subject while the books by Wickwar, Cole, and Robson are both useful and illuminating. Rowntree and Laver's *Poverty and the Welfare State* provides significant evidence of the achievements of the British social security program. John Madge's *The Rehousing of Britain* presents vividly the problems with which the British are confronted, and *Britain's Town and Country Pattern* includes the most significant material and arguments behind the present program in this field.

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## Chapter 10. Great Britain and the World

It is almost embarrassing to choose among the superabundance of books on the British Empire, the Commonwealth, and their international relations in general. For background reading, W. K. Hancock's *Empire in the Changing World* is most stimulating, particularly in its comparison of British and American experience. *The Colonial Problem* is a highly competent and interesting survey on a grand scale. L. P. Mair's *Native Policies in Africa* and Lord Hailey's *African Survey* are penetrating analyses of problems and policies in this vast area. A useful and competent survey which includes both historical and analytical material is W. E. Sminnett's *The British Colonial Empire*.

On the Commonwealth as a whole, Sir Ivor Jennings' book provides a good introduction. Sir Ernest Barker's *Ideas and Ideals of the British Empire* concentrates a remarkable amount of suggestive ideas and historical material into a small space. *The British Empire* is a careful and useful survey of a vast amount of material relative to the subject. G. M. Carter's *The British Commonwealth and International Security* treats the evolution of separate Dominion policies in terms of international issues rather than in the more customary constitutional terms, which are handled most adequately by R. MacGregor Dawson in *The Development of Dominion Status, 1900-1936*. An excellent article on status is F. R. Scott's "The End of Dominion Status."

A comprehensive factual book on developments in Canada, Australia, New Zealand, and South Africa is Brady's *Democracy in the Dominions*. On individual Dominions, the books are too numerous to list. C. H. Grattan's *Introducing Australia* and the volume he edited on *Australia* provide admirable introductions to that country while Crisp's *Parliamentary Government in Australia* is a highly competent and informed treatment of parties as well as institutions. Miss Overacker's article on the Australian Labor Party is the best description of an unusually interesting political party. *Canada*, edited by George Brown, is an excellent survey and R. MacGregor Dawson's *The Government of Canada* the most comprehensive work in this field.

S. M. Lipset's *Agrarian Socialism* deserves special mention for its perceptive analysis of the C.C.F. *New Zealand*, edited by Horace Belshaw, and Leslie Lipson's *Politics of Equality* provide a sound and stimulating picture of New Zealand, as does F. L. W. Wood's *New Zealand in the World*. Webb's *Government in New Zealand* is the most systematic survey of that subject. A. Keppel-Jones' *South Africa* is the best introduction to the complex problems of that country while C. W. de Kiewiet's *A History of South Africa* is distinguished both for insight and readability. Roberts' and Trollope's *The South African Opposition* is a remarkable account of the Nationalist Party before it came into office. On India, it is well to read Nehru's books, *Discovery of India* and *Towards Freedom*, as well as the more general and historical treatment of issues in Sir Atul Chatterjee's *The New India* and Sir Reginald Coupland's *India: A Restatement*. Mellor's *India since Partition* is a brief but convenient survey by a British journalist. On Pakistan, the most comprehensive and well-balanced book is R. Symond's *The Making of Pakistan*. Sir Ivor Jennings' books on Ceylon are the work of one who has not only closely observed but also been influential in the developments he describes, while S. D. Bailey's *Ceylon* provides a useful general account. For the understanding of these three Asian countries, the books on *Hinduism*, *Mohammedanism*, and *The Buddhist Way of Life* are of particular importance.

Within the wide range of material on British relations with foreign countries, the Chatham House surveys entitled *British Security* and *Defence in the Cold War* are extremely useful while Hawtrey's *Balance of Payments* and Barbara Ward's *Policy for the West* (cited under Comparative Works) present the fundamental economic problems faced by the British. John Price's *Foreign Affairs and the Public* does an unusually good job of presenting basic ideas.

## THE BRITISH EMPIRE

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## FRANCE

## General Works

For reasons which will be obvious to anyone who has attempted to write about French government since the liberation, there are few comprehensive analyses of French politics today or detailed studies of particular institutions. Students of contemporary France must be all the more grateful, therefore, for the wide ranging and often penetrating studies in *Modern France* edited by E. M. Earle. In comparison, O. R. Taylor's *The Fourth Republic of France* seems pedestrian though it provides a useful survey of political machinery and parties. D. C. McKay's *The United States and France* is a rounded if somewhat general account; while Otto Kirchheimer's *A Constitution for the Fourth Republic*, though written early, is still useful.

Some of the older analyses of the government of the Third Republic retain some value, the more so as the Fourth Republic increasingly displays features similar to those of the Third Republic. Of these works, W. R. Sharp's *The Government of the French Republic* is the best textbook, although Robert Valeur's treatment has the merit of considering political forces and ideas as well as institutions. W. L. Middleton, a British journalist, has contributed an exceptionally perceptive analysis in *The French Political System*.

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## Chapter 1. French People and Politics

With the postwar crises, certain of the most celebrated books on the French character (Sieburg's *Who Are These French?* and Siegfried's *France: A Study in Nationality*) have taken on an almost nostalgic character. Curtius' *The Civilization of France*, however, still provides valuable insight into some of the permanent factors in French life. Essays in Earle's book (cited above) and two recent analyses of the social and economic forces in France—one by an Englishman, Thomson, and one by a Frenchman, Maillaud—provide an excellent introduction to current problems.

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## Chapter 2. The French Political Heritage

The politics of modern France, of course, represents an outgrowth and, in some respects, an intensification of the political crisis of the Third Republic, and in this sense we are especially fortunate in the possession of an excellent history of the Third Republic (Brogan's), a penetrating analysis of the social and economic forces of its last years (Thomson's *Democracy in France*), and a series of excellent descriptions by the British journalist Alexander Werth, who followed the fate of the Republic in its declining years with keen interest and sympathetic understanding.

In turning to France's earlier history, Seignobos' *The Evolution of the French People*, which was written for American students, provides a good introduction to social as well as political developments, while Macdonald's *A History of France* provides a longer and more detailed political narrative. Albert Guérard's *France: A Short History* is well written and stimulating, but it may confuse the reader who misses the point of the frequent allusions.

Returning to more recent times, the collapse of France in 1940 inspired a whole library of descriptions and analyses, of which the best is *The Gravediggers of France* by Pertinax (André Géraud). The ideological confusion of the years preceding the collapse is well depicted in Charles Micaud's *The French Right and Nazi Germany*. Dorothy Pickles' *France between the Republics* is an intelligent and highly informative account of the Vichy period, and Gordon Wright's *The Reshaping of French Democracy* is an extremely valuable study of the period of the framing of the constitution of the Fourth Republic.

There is, of course, a wealth of literature on French political thought. In addition to the many books devoted to individual thinkers, certain general studies are exceptionally interesting and illuminating. Carl Becker's slightly irreverent discussion of the political thought of the Enlightenment, *The Heavenly City of the Eighteenth Century Philosophers*, is unique for its felicity of style and suggestiveness of idea, although a generation which has experienced the viciousness of totalitarian systems of thought may regard the generous if naïve humanitarianism of the eighteenth century with greater sympathy than was to be expected in

1932. Kingsley Martin's and Roger Soltau's surveys of eighteenth and nineteenth century thought are particularly helpful, while Carlton J. H. Hayes' discussion of the nationalism of Bonald, Maistre, Barrès, and Maurras is succinct and illuminating.

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## Chapter 10. France and the World

The most comprehensive surveys of the French Empire are still those in *The French Colonial Empire* and Priestley's *France Overseas* but the short sections on the subject in *Colonial Administration by European Powers* and Crocker's *On Governing Colonies* are suggestive and enlightening. Gordon Wright's *The Reshaping of French Democracy* (cited under Chapter 2) contains an extraordinarily interesting and vivid account of the effect of native representation on the discussions of the Constituent Assembly. The latter part of Donald McKay's *The United States and France* (cited under General Works) brings out the changing spirit of French foreign policy since 1950. W. M. Jordan's *Great Britain, France and the German Problem, 1918-1939* is a masterful and penetrating account of international relations between the wars, while *France and Britain* deals with some fundamental factors in the relations of those two countries.

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## SOVIET UNION

### General Works

The Soviet Union presents, in an extreme form, a problem which is ever present in political literature: how to know what to believe when authors disagree fundamentally with one another not only in their judgment and interpretation of the facts but in their statement of the facts themselves. The fact that politics is a very human subject, deeply involved with aims and ideals which are profoundly personal and subjective, means that in the most important cases it is impossible to weigh and measure and emerge with "scientific" answers or to reduce significant political judgments to the limits of precise and unchanging formulas. Even in British politics, a radical, a liberal, a conservative, and a reactionary each will give a different estimate of the value of the monarchy or the House of Lords; but such disagreements are only a shadow of those which arise in the case of the Soviet Union. For the study of Soviet government inevitably raises questions which cut across men's innermost convictions: to some critics of the Soviet regime, a demand for "objectivity" is like asking a humanitarian to be objective about human sacrifice; to some admirers, a plea for objectivity is like asking a minister to take a nonpartisan attitude toward the Ten Commandments. And the consequence is a chorus of every gradation of denunciation and glorification so contradictory as to tempt the student to assume that everybody is prejudiced and that it is impossible to arrive at any sound and valid judgment. There is, for example, a whole library of bitter hostility (as represented, let us say, by the books of David Dallin) and one of uncritical admiration (Anna Louise Strong, Hewlett Johnson, Jerome Davis). Increasingly, too, there is a literature of disillusionment emanating from individuals (Arthur Koestler, Freda Uteley, Markoosha Fischer, Eugene Lyons, W. H. Chamberlin) who once were sympathizers or even members of the Communist Party and whose horror at the miscarriage of their ideal has placed them among

the most vigorous and articulate opponents of the Soviet regime.

The existence of so wide a variety of approaches may well tempt the reader to seek some common denominator in the hope that this may afford a balanced judgment. But little can be more misleading or, indeed, unscholarly. The truth is not to be found in a gradation of errors but through a rigorous process of analysis and differentiation. Official statements which, in a sense, "make" history are, of course, basic sources of references. Those works which comment on developments must be divided between the objective treatments and those deliberately slanted in a pro-Soviet or anti-Soviet direction. The violently hostile are not necessarily more reliable than the adulatory, and both types of slanted material are largely useless except as they contain official material, not available elsewhere or can be used as examples of propaganda. The most valuable works then, apart from official sources, are the objective treatments by experienced scholars, and firsthand accounts whose presuppositions are clearly stated.

Fortunately there are now several excellent analytical studies of the Soviet Union which present reliable material by which other works can be tested. Among these J. Barrington Moore's *Soviet Politics* ranks very high while Julian Towster's *Political Power in the U.S.S.R.*, though less dynamic, is similarly a carefully prepared and sound work. Meisel's *Materials for the Soviet System* is an unusually useful collection of basic documents.

Among other works, the most thorough (although already somewhat outdated) studies are Basily's *Russia under Soviet Rule* (critical) and the Webbs' *Soviet Communism* (extremely friendly). Sir John Maynard's new edition of *Russia in Flux*, although disjointed and not well adapted to the needs of the beginner, is outstanding for its insight, tolerance, and honesty. Of the texts, Harper and Thompson, a complete and much expanded revision with a clear and objective approach and an admirable annotated bibliography, Florinsky's decidedly hostile treatment, and Schuman's adroitly apologetic exposition are the best. The relevant pages of Arthur Koestler's *The Yogi and the Commissar*, written with passion and artistry, constitute a brilliant and bitter indictment. Of the earlier books, Brailsford provides a particularly interesting description of the democratic possibilities which failed to be realized, and Maxwell presents a careful study of the old political structure. An excellent introduction to the study of Soviet government is the Penguin Books edition of Sir Bernard Pares' *Russia*.

Almost everyone who has spent a few weeks in Russia since 1917 has felt obliged to place his impressions and experiences upon paper, and if some of the resulting literature is trivial, superficial, and unreliable, much of it is extremely rewarding. Among the most valuable by foreign observers are Walter Bedell Smith's *My Three Years in Moscow*, which is packed with information presented most readably, and Magidoff's *In Anger and Pity*, an objective and vivid account. Useful also are the Timbres' sympathetic account of

their sojourn in the Soviet Union and Markoosha Fischer's bitterly disillusioned chronicle. Of the books written by exiles, Barmine's *One Who Survived* is outstanding, and Ciliga's *Russian Enigma* especially illuminating on inner party quarrels. In comparison, the much read Kravchenko's *I Chose Freedom* is much more uncritical in its denunciations.

A great deal of very useful material is now available through the translations presented in *The Current Digest of the Soviet Press* and *Soviet Press Translations*. The excellent, though rather specialized *Soviet Studies* also includes translations of Soviet documents and speeches. Thus these periodicals present source material on Soviet developments which is otherwise almost impossible to secure. Most of the other periodicals dealing exclusively with the Soviet Union are sympathetic if not subservient to the Soviet regime.

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*Soviet Russia Today*  
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*U.S.S.R. Information Bulletin*

## Chapter 1. Soviet People and Politics

The authority of Marxism-Leninism-Stalinism is so persistently invoked that anyone who wants to understand the politics of the Soviet Union should have at least a passing familiarity with certain outstanding works. The Modern Library's digest of Marx's *Capital* combined with the *Communist Manifesto* and other writings is particularly convenient. There are various complete editions of *Capital* available, although the book as a whole is far too formidable for the average inquirer. Guides like those of Cole and Hook are helpful, however, as is Parkes' criticism. Isaiah Berlin's life of Marx is excellent.

The most convenient source for Lenin's thought is in his *Selected Works*, although the *Collected Works* are in the process of publication. *The State and Revolution* is the most useful of his writings for the student of Soviet politics and *Imperialism* remains important; of his earlier works, *What Is To Be Done* and *One Step Forward, Two Steps Backward* are particularly rewarding. Of his postrevolutionary writings, *Left-Wing Communism: An Infantile Disorder* and *The Proletarian Revolution and the Renegade Kautsky* have special interest. Of the many biographies, Shub's is the most recent and best, although it is not particularly lively reading. Mirsky's sympathetic biography is more attractively written.

Although Stalin is hailed as a master stylist in the Soviet Union, his writings are heavy, repetitious, and quite devoid of Lenin's sharpness, quickness, and epigrammatic flavor. Nonetheless, they are an essential source for anyone seeking to understand the Soviet Union in the Stalinist period. A useful selection of his writings is to be found in Werner's edition, *Stalin's Kampf*, while Burns' *Handbook of Marxism* provides the principal writings of Marx, Engels, Lenin, and Stalin. Deutscher's biography of Stalin is the most complete and, though open to criticism on particular points, the most satisfactory. Souvarine's life has a strong Trotskyite slant. Mitrany's *Marx against the*

*Peasants* is a significant study of the operation and effects of political and social dogmatism.

On Soviet geography, Cressey's *Basis of Soviet Strength* gives a good general introduction. Kunitz' *Dawn over Samarkand* is a sympathetic account of the effect of the Revolution on Soviet Central Asia.

A well-written, illuminating book on the church in Russia is that by Anderson. Timasheff's account is critical and substantial.

A highly useful and definitive work on the crucial subject of organs of mass communication is now available in Alex Inkeles' *Public Opinion in Soviet Russia*. There is also a wealth of material on the cultural purge, e.g., the stenographic record of the genetics debate (Lysenko, *The Situation in Biological Sciences*) and an excellent little book by Hudson and Richards on the subject. Due to the Russian translation program of the American Council of Learned Societies, we also have available certain works by Russian authors (e.g., Aleksandrov, *A Soviet History of Philosophy*, and *Soviet View on the Postwar World Economy*, including the work by Varga) which were subjects of criticism, and others (Egolin, Kovalyov, Mendelson, and *Book Publishing in Soviet Russia*) which provide all too rare firsthand material on Soviet attitudes and cultural developments.

Ever since the establishment of the Soviet government, Westerners have been shocked by a long succession of firsthand reports, like those of Tchernavin and Gliksman, describing the barbarous punishment of political opponents of the regime in forced-labor camps. As a counterbalance to such accounts, the report of Edelman should be read. Dallin and Nicolaevsky have made the most thorough survey of the available information on the character and number of these camps; and although their evidence and conclusions have alike been challenged by Soviet sympathizers, the failure of the Soviet government to make other evidence available lends a presumption of reliability to the reports of those who have themselves been prisoners.

The famous Moscow trials of Trotskyites and other opponents of Stalin's policy inspired a series of highly controversial publications. The People's Commissariat of Justice of the U.S.S.R. has printed the reports of the various trials, and the testimony of Trotsky before the Dewey Commission has also been published. One of the most interesting and intelligent explanations of the sensational confessions is to be found in Arthur Koestler's novel *Darkness at Noon*, which conveys a remarkably sensitive and realistic picture of the Communist mentality. Markoosha Fischer and Victor Kravchenko (cited above) give vivid accounts of the purges as they affected somewhat less exalted levels of Soviet society.

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Of the many histories of Russia, the most suggestive is Sumner's *A Short History of Russia*. Its failure to conform to a chronological pattern, however, is likely to confuse the reader who has no other background in Russian history. Of the more orthodox accounts, Kirchner is the best brief work while Pares and Vernadsky also provide good introductions. Bertram Wolfe's *Three Who Made a Revolution* (Lenin, Trotsky, Stalin) is an excellent study which goes up to 1917. E. H. Carr's *The Bolshevik Revolution* is an authoritative and very illuminating work on the early years of the present regime and Chamberlin's *The Russian Revolution* is also very good on the Revolution and Civil War. Rosenberg's *History of Bolshevism* is still one of the best interpretative works, and Batsell's *Soviet Rule in Russia* is among the best on early Soviet government. Many writers—Fedotov, Kohn, Kolarz, and Maynard among others—emphasize the continuing influence of the traditions of nationalism and authority. The volumes edited by Pankratova have a special interest in that they are translations of an official Soviet high school text.

All of the more general books about the Soviet Union deal with the collectivization of the farms and the successive Five-Year Plans. Hindus' books (cited under General Works) help one to understand the impact of collectivization in more human terms, as does Sholokhov's novel *Seeds of Tomorrow*. John Scott's *Behind the Urals* (cited under Chapter 6) gives an interesting and revealing picture of the drive for industrialization, somewhat different from that of Kravchenko.

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Every book on the Soviet Union devotes considerable attention to the position of the Communist Party: among the most authoritative discussions are those in J. Barrington Moore's *Soviet Politics* (cited under General Works) and the articles by Merle Fainsod and Louis Nemzer. There is also a good deal to be learned from a reading of the report of Party congresses, and especially from a study of the Party rules there adopted of which the most recent, those of 1939, are printed

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On the now disbanded Comintern, Borkenau's critical work is the most complete but is far from definitive. Basic documents on this body are included in Chamberlin's *Blueprint for World Conquest*. Ruth Fischer's book is extremely interesting on Germany and the Comintern though it has a marked Trotskyite slant. There are no comparable studies as yet on the Cominform but a good view of its operations can be gained from available articles and studies on the satellite countries.



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## GERMANY

### General Remarks

A bibliography on German government and political institutions encounters particular difficulties. Accounts of German politics are likely to be influenced by the political and ideological preconceptions of the writers, although perhaps less so than in the case of the Soviet Union. Moreover—even to a greater degree than for France—there is a dearth of comprehensive analyses of German politics. There are no analyses of present politics because present German institutions are in flux, having emerged from the postwar confusion only since the end of 1949. Nor are analyses of earlier periods entirely satisfactory, since everything political in Germany has for a long time been in a state of change. There has been no period of stability, such as that of the Third Republic in France, which, reaching into recent times, could be made the basis for a more inclusive analysis. In Germany there has been no governmental stability or continuity: German government and politics must be described in terms of different periods (e.g., the Hohenzollern period, the period of the Weimar Republic). But when American and British authors had begun to take interest in German government, the Empire toppled; a more detailed study of the Weimar period had hardly gotten under way when that regime crumbled; and adequate analysis of the Nazi period, based on documentary evidence, has been possible only since 1945 (although, due to the influx of German *émigré* scholars into English-speaking countries, coverage of this period has been ample even prior to that date).

The more recent the period under scrutiny, the more likely we are to have special political interpretation. Few, even prior to the rise of Nazism, could approach German problems with scientific objectivity. Germans were enemies of the Anglo-Saxon countries in two world wars. World War I gave rise to a vituperative literature which, on the assumption of Germany's war guilt, condemned everything German. In response to this exaggeration an equally exaggerated "revisionist" literature in the late twenties began to exculpate Germany from all responsibility. In this respect history seems to repeat itself today, although there is now less justification for a rectifying revisionism, since the negative aspects of Nazism could hardly be exaggerated. Yet, while a critical attitude toward Germany and Nazism still prevails, present revisionism (of which Freda Utley's *The High Cost of Vengeance*, Lord Hankey's *Politics, Trials and Errors*, or the late Gustav Stolper's *German Realities* are examples), like many German apologias for Nazism, seems to assume that all of Germany's present miseries go back to Potsdam, Yalta, denazification, or the war crimes trials, instead of to Hitler and Munich, nazification and war crimes. Thus most of the literature referring to present Germany is colored by attitudes pro or con.

An additional difficulty is that detailed studies of particular German institutions (e.g., parliament, par-

ties), both past and present, are rare. Some of the existing ones (like Sigmund Neumann's study of the German party system) have never been translated into English. Another reason for this dearth is that in contrast to the British and the French, Germans have been neither adept nor prolific in the analysis of political processes and institutions, including their own. Germans used to approach them either as philosophers (often metaphysical) or as historians or jurists; until very recently there was no German "political science," and there is no German counterpart to Britain's Bagehot or France's Alain.

Therefore, in the case of Germany, greater reliance must be placed on such primary or official sources as exist in English. A complicating factor, in this respect, is, not the absence, but the abundance of such sources, in particular in regard to the Nazi period and post-World War II Germany. For instance, the plentiful official reports by occupation authorities are likely to be out-of-date shortly after (sometimes prior to) their publication. Yet such serial publications as the quarterly Reports of the United States High Commissioner for Germany are valuable sources for certain fields, because they are sometimes the only ones extant. But because of the fast-changing nature of present German politics and government it is more important than in the case of other countries to follow developments with the assistance of those newspapers and magazines that pay continual attention to German affairs and have correspondents in Germany.

For the reasons outlined above, no "general works" on German government and politics can be listed. Works dealing with phases of German government are listed in chapter 2 under the historical periods which they refer to.

## Chapter 1. German People and Politics

Up-to-date summaries of basic data—population, resources, and so forth—are hardly obtainable. Some statistical data are found in such reference books as the yearly volumes of *The Statesman's Yearbook* (New York, Macmillan) or the *Political Handbook of the World*, edited by Walter H. Mallory (New York, Harper Bros.). There is very little on German public opinion media, but enough on the history (though not up to the present) of German political thought. Overall descriptions of general German institutions are rare, but Lowie's *The German People* (although dealing with the nineteenth century mainly) and Veblen's now classic *Imperial Germany* provide much admirable and still valid background material.

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## Chapter 2. The German Political Heritage

A comprehensive study of German government and politics does not exist in the English language. Under "I" below, however, are listed some general histories of Germany, particularly ones written recently and emphasizing internal political developments. Under "II" are works on German government and politics prior to the Nazi period. Unfortunately, there is little on the Hohenzollern Empire that is still valid. For the Weimar period we have the thorough, though somewhat pedestrian, study by Blachley and Oatman, con-

centrating on governmental institutions and administrative processes. A comprehensive study of society and general political developments under Weimar has not yet been published. For the earlier years of Weimar, Arthur Rosenberg's *History of the German Republic* is revealing, while the last years of the Republic are covered by Brecht's *Prelude to Silence*. Some works which chiefly deal with Nazism and are listed under "III" may be usefully consulted for earlier developments also, particularly those of Franz Neumann and Karl Loewenstein.

On the Nazi period there is, of course, a whole library dealing with the system and its policies in general, and with Nazi government and politics. Some of these are listed under "III." Particularly valuable are Loewenstein's *Government and Politics in Germany* and Neumann's *Behemoth*, the latter being easily the most ambitious and forceful treatment of Nazism so far, and an especially valuable study of society and economic structure. No student of recent Germany, of course, can dispense with Nazism's own statements, the chief ones of which are listed, as far as they have come out in English (of Hitler's *Mein Kampf* there still exist only poor translations, while the second Nazi "Bible," Alfred Rosenberg's *Mythus des 20. Jahrhunderts*, remains untranslated).

Any definitive study of Nazism can be made only on the basis of the material which has become known since the regime's downfall. The wealth of this material, particularly what has been published as a result of the war crimes trials (an indispensable source which covers almost all phases of Nazism, not only the criminal ones), is bewildering. No attempt has been made to list these publications here; instead, Kempner's bibliographical article may serve as guide to the chief part of these materials.

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 Loewenstein, Prince Hubertus zu, *The Germans in History*, Columbia University Press, New York, 1945, 584 pp.  
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### II. PRE-NAZI DEVELOPMENTS

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### III. NAZI PERIOD

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- Trevor-Roper, H. R., *The Last Days of Hitler*, Macmillan, New York, 1947, 254 pp.
- Viereck, Peter, *Metapolitics, From the Romantics to Hitler*, Knopf, New York, 1941, 335 pp.

### Chapter 3. Political Reconstruction and Present German Governments

There is a flood of writing on postwar German developments, much that is excellent though of the journalistic type, but much that is merely transitory. A book based on a trip to Germany (or on military government work in Germany) in 1946 or even 1949 is more likely than not outdated by now. There is as yet nothing comprehensive on the two present governmental systems, their constitutions and institutions. Our bibliography, therefore, confines itself to two main kinds of publications: Documents and articles which deal with the development of Allied German policies and with the establishment and the general framework of present Eastern and Western German government; and the most significant volumes on postwar German developments, whether apologetic for Germany (e.g., Utley's book), or official in character (e.g., the book by General Clay), or critical of Germans and of Allied German policies (e.g., Delbert Clark's book). Writings which concentrate on specific fields or institutions will be listed separately under subsequent chapter headings. The best short summaries of the German situation in 1950 are found in the pamphlets of the two Neumanns (Franz and Sigmund) listed below. Admirable annual surveys of German developments are found in *The U. S. in World Affairs* by the Council on Foreign Relations, now edited by Richard P. Stebbins (New York, Harper Bros.).

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- deased versions in English of valuable articles from that outstanding German magazine, covering party developments and many other aspects of German politics. Still, there is more on extreme parties and groups, such as the SED or the nationalists, than on the SPD or the CDU, and, unfortunately, this publication has now been discontinued.
- There is even less on elections and parliament. The treatment of election problems in Germany has, if one may say so, suffered from a contribution, namely Hermens' lifework, which has been devoted to the study and criticism of proportional representation; valuable as this has been, it concerns one aspect only, and other aspects have been neglected.
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- "Landtag Elections in the U. S. Zone," *Information Letter of the Frankfurter Hefte*, no. 11/12, December 1-15, 1950, pp. 2-11
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## Chapter 4. German Parties and Elections; Chapter 5. German Parliamentary Institutions

There is surprisingly little by way of critical analysis of German parties and the German party system, even for the pre-Nazi period. Finer's pages may serve as convenient introduction, however. As for the present parties, most information must be gleaned from the daily press and the magazines. OMGUS' 1949 booklet (*Political Parties in Western Germany*) is still the most inclusive survey of existing Western German parties and their programs. Fortunately, we have had in the Information Letters of the *Frankfurter Hefte* con-



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- , "The Socialist Unity Party," *Information Bulletin*, March 1951, pp. 29-31, pp. 67-68
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## STATE AND LOCAL GOVERNMENT

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- OMGUS, *Constitutions of the German Laender*, prepared by Civil Administration Division, 1947, 243 pp.
- , *Land and Local Government in the U. S. Zone of Germany*, prepared by Civil Administration Division, September 1947, 111 pp.
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## Chapter 6. Executive and Administration; Chapter 7. State and Local Government in Germany

Except for the problem of denazification, there is scant treatment of present executive and civil service in Germany. Arnold Brecht's article contains one of the few discussions of civil service reform (with admirable suggestions which were, unfortunately, not followed). On the traditional civil service, its problems and its developments, see Finer. Some of the articles on the present constitutions of Eastern and Western Germany, listed under chapter 3, contain brief discussions on the present executives.

On present local government there is hardly anything. Local government up to the Nazi period is best treated in Wells' *German Cities*, much of which is still valid today.

## EXECUTIVE

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### Chapter 9. Problems of German Society

There is little on present school reform problems; background data can be found in the various volumes of the *Educational Yearbook*. The books by Bruck and Stolper provide the background for German social and economic problems in general, the writings by Reich and Wissel that of labor and social insurance problems in particular. See also Franz Neumann's *Behemoth* for these phases. Anything dealing with current developments in the field of labor and economic structure is likely to be outdated very quickly; the story has to be followed up in the press.

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## Chapter 10. Germany and the World

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